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THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Forty-seventh year

Letter dated 4 November 1992 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

I have the honour to enclose herewith, annexed to the present letter, the "Declaration of the Committee of Ministers of the Council of Europe on the conflict in the former Yugoslavia", adopted at the Special Ministerial Meeting of the Committee of Ministers, held at Istanbul on 10 and 11 September 1992, and chaired by His Excellency Hikmet Çetin, Minister for Foreign Affairs of the Republic of Turkey, in his capacity as current Chairman of the Committee of Ministers of the Council of Europe.

I would be grateful if you would circulate the text of the present letter and its annex as a document of the General Assembly, under agenda item 143, and of the Security Council.

(Signed) Mustafa AKŞİN
Ambassador
Permanent Representative

ANNEX

Declaration of the Committee of Ministers of the Council of Europe on the conflict in the former Yugoslavia, adopted on 11 September 1992

1. The Committee of Ministers of the Council of Europe expresses its profound alarm over the conflict in former Yugoslavia, where every day there is violation with the utmost brutality of human rights and the Organization's other principles, causing untold human suffering.

2. It further expresses its grave concern over the growing danger that hostilities may spread to other Republics and territories, thus threatening the security, stability and democratic future of the whole region.

3. Convinced that a lasting solution to the conflict can be found only through respect for international law and the principles and commitments of the Council of Europe and of the CSCE, in particular the inviolability of frontiers and respect for human rights, fundamental freedoms and the rights of persons belonging to national minorities, the Committee of Ministers:

- condemns "ethnic cleasing", which recalls the darkest moments of Europe's history;

- declares that it will not recognize any situation created by a policy of "faits accomplis";

- insists that forced expulsion, deportation, attempts to change by force the ethnic composition of regions, as well as illegal detention, cease immediately, and calls for detainees to be released and displaced persons and forced migrants to be permitted and helped to return to their homes.

4. The Committee of Ministers expresses its full support for the Statement of Principles and the other agreements reached at the London Conference and underlines the importance of the full compliance with these commitments as well as of the decisions taken at the International Conference on Peace in ex-Yugoslavia currently under way in Geneva. The Committee of Ministers therefore:

- demands from all parties to comply strictly with all commitments arrived at or resulting from the London Conference;

- demands from all forces, and particularly those of Serbia and Montenegro, to cease their aggression against the sovereign State of Bosnia Herzegovina and to desist from the threat or use of force against that State or on its territory;

- welcomes the efforts of the Security Council to provide a mandate for adequate military protection of humanitarian aid convoys and international supervision of the heavy weapons of all the parties concerned;

- firmly condemns any attacks against UNPROFOR and international observers and demands that those responsible be sought and severely punished;

- supports all efforts to make existing United Nations' sanctions effective;

- calls upon the United Nations Secretary-General and the Security Council to take all necessary measures with a view to enforcing compliance with the decisions of the Security Council by parties that continue to obstruct a political solution to the conflict and that frustrate the safe delivery of humanitarian aid;

- instructs the Secretary-General to contact the Co-Chairmen of the Steering Committee of the International Conference on Peace in ex-Yugoslavia with a view to working out what contribution the Council of Europe could make to the study of the various aspects of the creation of an international criminal Court, taking into account Assembly Recommendation 1189 (1992) and other work undertaken on the question, such as that of the United Nations International Law Commission, and to making inquiries concerning criminal acts committed by individuals with regard to the Geneva Conventions;

- declares the readiness of the Council of Europe to contribute in particular to the CSCE missions on human rights, including those which are to be sent to Kosovo, Sandjak and Vojvodina;

- reaffirms the readiness of the Council of Europe to do all in its power to help in the search for a lasting solution in conjunction with the European Community and its member States, the CSCE and the United Nations;

- instructs the Secretary-General to contact the Co-Chairmen of the Steering Committee of the International Conference on Peace in ex-Yugoslavia with regard to the contribution that the Council of Europe could make in the fields of its competence to the work of the Conference, concerning, inter alia, the creation of a legal framework for the strict implementation of all human rights commitments and the elaboration of the constitutional framework necessary for a lasting solution of the problems related to the situation of nationalities and national minorities on the territory of former Yugoslavia.

5. The Committee of Ministers expresses full support for the efforts of the ICRC and UNHCR regarding humanitarian assistance and sheltering of refugees

and displaced persons in the region and calls upon member States and the organs of the Social Development Fund, in concertation with UNHCR, to mobilize the full potentialities of the Fund for the resettlement of the refugees.

6. Lastly, the Committee of Ministers intends to continue to work for the respect for the values and principles upheld by the Council of Europe throughout the territory of former Yugoslavia, as well as the restoration of confidence between the populations affected by this conflict.

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THE SITUATION IN BOSNIA AND HERZEGOVINA

SECURITY COUNCIL
Forty-seventh year

Letter dated 5 November 1992 from the Permanent Representative of Turkey to the United Nations addressed to the Secretary-General

Further to my letter dated 4 November 1992 (A/47/652-S/24792), I have the honour to enclose herewith, annexed to the present letter, the "Declaration of the Committee of Ministers of the Council of Europe on the conflict in the former Yugoslavia", adopted at the Special Ministerial Meeting of the Committee of Ministers, held at Strasbourg on 5 November 1992, and chaired by His Excellency Hikmet Çetin, Minister for Foreign Affairs of the Republic of Turkey, in his capacity as current Chairman of the Committee of Ministers of the Council of Europe.

I would be grateful if you would circulate the text of the present letter and its annex as a document of the General Assembly, under agenda item 143, and of the Security Council.

(Signed) Mustafa AKŞIN
Ambassador
Permanent Representative

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ANNEX

Declaration on the situation in the former Yugoslavia

1. The Committee of Ministers of the Council of Europe expresses its deep concern about the impending human tragedy which threatens to engulf the former Yugoslavia as winter approaches.

2. It considers that the scale of the ever-increasing suffering calls for immediate and resolute action by the international community, and underlines the urgent need to ensure safe areas and to provide emergency relief and shelter for the refugees.

3. The Committee of Ministers condemns the generalized and persistent recourse to violence and the brutal violations of human rights and international humanitarian law which are the cause of untold human suffering and constitute at present the main obstacle to the provision of indispensable aid.

4. The Committee of Ministers recalls its Declaration on the conflict in the former Yugoslavia, adopted on 11 September 1992 at Istanbul, and in which it

- condemned "ethnic cleansing";

- declared that it would not recognize any situation created by a policy of faits accomplis;

- expressed its grave concern over the growing danger that hostilities may spread to other republics and territories;

- insisted that forced expulsion, deportation, attempts to change by force the ethnic composition of regions, as well as illegal detention, cease immediately and that the previous situation be re-established.

5. The Committee of Ministers

- supports the efforts of the United Nations Secretary-General and the Security Council to take the necessary measures with a view to enforcing compliance with the latter's decisions;

- recalls the absolute necessity for all the Parties to honour the totality of the commitments they accepted at the London Conference of last August;

- expresses its firm support for the action of the Geneva Conference. It recalls its support for the maintenance of the Bosnian State and of its present frontiers, the need for the agreement of the three Parties (Serbs, Croats and Muslims), as well as its support for the

draft Constitution for Bosnia and Herzegovina, based on democratic principles, including the protection of human rights and of minorities.

6. In the framework of work in progress, the Committee of Ministers, in the light of a report by the Secretary-General on talks with the Co-Chairman of the Steering Committee of the Geneva Conference, Lord Owen and Mr. Cyrus Vance, and after contacts with the Presidents of the European Court and the Commission of Human Rights, welcomes the idea of creating, within the framework of the Constitution of Bosnia and Herzegovina, a judicial control of human rights with the participation of the Council of Europe.

The Committee of Ministers instructs its Deputies to consider, as a matter of urgency, the political and legal aspects of the implementation of such a proposal within the framework of the Geneva Convention.

7. Finally, the Committee of Ministers reiterates its support for the efforts being made in the area of humanitarian aid, to protect displaced persons and refugees by member States and by the International Committee of the Red Cross (ICRC) and the Office of the United Nations High Commissioner for Refugees (UNHCR), and requests the Social Development Fund of the Council of Europe to examine all possibilities for action in this field.

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LETTER DATED 10 NOVEMBER 1992 FROM THE SECRETARY-GENERAL
ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to the statement by the President of the Security Council, dated 8 October 1992 (S/24637), on the situation in Georgia. In that statement, the Council expressed its support of the decision by the Secretary-General to send another mission to Georgia, endorsed its proposed mandate, looked forward to receiving the report by the Secretary-General following that mission, and expressed its readiness to consider his recommendations concerning the contribution which the United Nations could make to the implementation of the agreement of 3 September 1992.

The mission, which was in Georgia from 13 to 16 October 1992, was headed by Mr. Antoine Blanca, Director-General of the United Nations Office at Geneva and included Mr. Gustave Feissel, Director of the Europe Division of the Department of Political Affairs.

I have considered the report, including its conclusions and observations, presented to me by the mission. I am pleased to annex hereto a summary of the report for the information of the members of the Council.

In the three weeks since the first United Nations mission to Georgia the situation has dramatically worsened. Following the renewed fighting on 1 October and the collapse of the 3 September agreement (S/24523, annex), Georgia finds itself on the brink of a conflict that could involve neighbouring countries. Unless the situation is redressed, the possibility of the eruption of a major conflict is high. The recent developments appear to have adversely affected the relations between Georgia and the Russian Federation and have thereby handicapped the efforts of President Yeltsin to promote a solution. The urgency of a summit meeting among the parties involved to put the 3 September agreement back on track is evident.

In response to the Council's invitation to the Secretary-General to make recommendations on how the United Nations could support the implementation of the 3 September agreement, I believe that the United Nations, in support of

the efforts of President Yeltsin, could help the parties in regaining mutual confidence, overcoming obstacles to the peace process initiated at the Moscow conference, mitigating evident suspicions among the parties and reversing what seems to be a rising mood to rely more on force than on a negotiated solution.

The Council may wish to call on the parties to meet at the highest level without preconditions to establish an effective cease-fire and to resume the peace process in line with the 3 September agreement. It could recommend that, if the parties so wish, the United Nations participate as an observer at such a meeting as a witness and facilitator and thereby assist the parties in regaining the confidence in the process that they themselves have devised and thereby help them in achieving an effective cease-fire and in negotiating a settlement that is fair to all concerned. Such a meeting would also provide an ideal opportunity to discuss the possible deployment of United Nations observers to monitor the implementation of the agreement.

In the meantime, in line with the proposal contained in my letter of 7 October (S/24633) and endorsed in the presidential statement (S/24637), two United Nations personnel have remained in Georgia to provide an initial United Nations presence. Their functions include establishing a United Nations presence in Georgia, maintaining continuous contact with all concerned, providing the United Nations Headquarters with daily situation reports and acting as a two-way link between the United Nations and the parties.

The United Nations presence in Georgia is being further strengthened by the opening this month at Tbilisi of an integrated interim office, which will also focus on development assistance and information support.

(Signed) Boutros BOUTROS-GHALI

Annex

Summary of the report of the mission to Georgia

1. Upon arriving at Tbilisi on 13 October 1992, the mission met with Mr. Eduard Shevardnadze, the Chairman of the State Council of the Republic of Georgia, Prime Minister Tangiz Sigua, Defence Minister Tangiz Kitovani and Deputy Prime Minister Sandro Kavsadze. It also met with members of the diplomatic community. On 14 October, the mission flew to Sukhumi, the capital of Abkhazia, where it received a briefing on the situation on the ground from Mr. Jaba Ioseliani, the Deputy Chairman of the State Council of Georgia, and others, and met with representatives of the Supreme Council of Abkhazia, including the first Deputy Chairman. On the same day the mission flew to Gadauta, where it met with Mr. Vladislav Ardzinba, the Chairman of the Supreme Council of Abkhazia and several of his colleagues. While at Sukhumi and Gudauta, the mission also met with the representatives of the International Committee of the Red Cross. The mission then returned to Tbilisi where, on 15 October, it had a second meeting with Mr. Shevardnadze to review the latest situation and to discuss the findings and possible follow-up measures. The mission left Georgia on 16 October.

The current situation

2. The situation in Abkhazia has seriously deteriorated since the first United Nations mission to Georgia in September (see S/24633). Severe fighting has broken out, the military build-up has intensified, the two sides are accusing each other of the most serious human rights violations and a war mentality seems to be taking hold. In addition, the relations between Georgia and the broker of the 3 September agreement, the Russian Federation, have deteriorated, handicapping the peace process. If the present situation is not reversed quickly, Georgia may find itself at the brink of a larger conflict, possibly involving neighbouring countries.

3. The situation in Abkhazia described in the previous report remained relatively unchanged without any progress being made in the implementation of the 3 September agreement until 1 October when Abkhaz forces, supported by fighters from the north Caucasus, captured the town of Gagra and quickly gained control of the area from the northern cease-fire line along the Bzib river to the border of the Russian Federation to the north and west. At the same time, fighting also resumed on the southern cease-fire line along the Gumista river, just three kilometres north of the Abkhaz capital of Sukhumi. In addition, Abkhaz and north Caucasian forces attacked the town of Ochamchira, located some 55 kilometres south-east of Sukhumi. Should the Abkhaz succeed in capturing Ochamcira, this could lead to the fall of Sukhumi, which would bring nearly 80 per cent of Abkhazia under Abkhaz control. The continued risk of this possibility, not to mention its actual fall, could trigger major military action, which could engulf the area in a major conflict that could involve neighbouring countries.

Status of the implementation of the 3 September agreement

4. The previous United Nations mission had already underlined that the 3 September agreement remained largely unimplemented. Since then, that agreement appears to have completely broken down. The cease-fire accord, which was to come into effect on 5 September and which was never fully implemented, has completely collapsed following the attack by Abkhaz and north Caucasian forces on 1 October. Furthermore, the disarming, disbanding and withdrawal of illegal north Caucasian armed formations and groups called for in the agreement has not taken place. In fact, their number has most likely increased and their movement across the border continues unhindered. It has also not been possible to implement the provision that, once a cease-fire was in force, the armed forces of Georgia present in the conflict zone would not exceed an agreed level required for the protecting of the railway and certain other installations in Abkhazia.

5. The resumption of hostilities has created a new wave of refugees and has led to accusations by both sides of atrocities being committed against the civilian population. Both sides have called for an international commission to investigate these charges. The Georgian authorities stated that the capture of Gagra had forced some 30,000 Georgians, Russians and Armenians to flee to the Russian Federation. In addition, the possibility of the fall of Sukhumi has resulted in a major outflow of its population.

Attempts to revive the 3 September agreement

6. During the first half of October, President Boris Yeltsin of the Russian Federation invited Mr. Eduard Shevardnadze, the Chairman of the Georgian State Council, and the other parties to the 3 September agreement, including Mr. Ardzinba, to meet at Sukhumi on 13 October to put the implementation of the agreement back on track. In this connection, Foreign Minister Chikvaidze of Georgia travelled to Moscow for preparatory discussions with Russian Federation Foreign Minister Kozirev. These discussions proved inconclusive as the participants were unsuccessful in bridging their differences. Efforts have continued at the working level.

The position of the Government of Georgia

7. Chairman Shevardnadze stated that Georgia continued to support the full implementation of the 3 September agreement but called for the restoration of the status quo that existed prior to the resumption of fighting of 1 October. In that connection, he added that the United Nations could play an important role in supporting the implementation of the agreement by deploying observers and by being present as an observer at future meetings such as the one proposed by President Yeltsin.

8. Mr. Shevardnadze complained that Georgia had been deceived with regard to the 3 September agreement. He expressed the view that the other parties had not fulfilled their obligations under the agreement. He stressed that, with the resumption of fighting by the Abkhaz side on 1 October, the prospects for

a political solution to the conflict had diminished. He underlined that a crucial question was whether the international community accepted Georgia's territorial integrity and therefore recognized Georgia's right to deploy troops within its own borders.

9. Mr. Shevardnadze expressed deep concern about the hostile intentions of the illegal "Confederation of Mountain Peoples of the Caucasus" established in the north Caucasus region of the Russian Federation, including its intention to make Sukhumi its capital. He said that he was particularly worried about the objectives of General Dudaev, the leader of the Chechen Republic, who, he believed, had an air force under his control of some 150 planes. He stated that no action had been taken to ensure the withdrawal of the illegal north Caucasian elements from Abkhazia and that their numbers had increased to about 3,000. He underlined the need to ensure that the border between the Russian Federation and Georgia is effectively controlled.

The Abkhaz position

10. The Chairman of the Supreme Council of Abkhazia, Mr. Vladislav Ardzinba, agreed that the 3 September agreement should be implemented. He noted, however, that there was a problem of interpretation. He recalled that, when he attended the meeting in Moscow on 3 September, he had insisted that all Georgian troops must be withdrawn from Abkhazia. This had not occurred. He indicated his preference to conclude a new agreement which explicitly stipulated that all Georgian troops should be withdrawn from Abkhazia.

11. Mr. Ardzinba stated that his objective was not the separation of Abkhazia from Georgia. What was necessary, he stressed, was direct talks between the two sides to agree on their relationship. He stated that he recognized the principle of territorial integrity but that the principle of self-determination also had to be respected.

12. Mr. Ardzinba acknowledged that his side was receiving outside support, in particular from the so-called "Confederation of Mountain Peoples of the Caucasus".

13. Mr. Ardzinba noted that Abkhazia had declared its own "sovereignty" prior to the admission of the Republic of Georgia to the United Nations and regretted that the international Organization had not taken any notice. He stated that the United Nations could play a very important role in Abkhazia, provided it addressed fairly the issues of concern to the Abkhaz side.

Observations

14. The precarious and potentially explosive situation reported by the previous United Nations mission has clearly worsened. Georgia finds itself on the brink of a major conflict that could involve neighbouring countries. If the situation is not reversed and confidence in the peace process of the 3 September agreement is not rebuilt, large-scale fighting appears inevitable.

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REPORT OF THE SECRETARY-GENERAL ON THE INTERNATIONAL CONFERENCE ON THE FORMER YUGOSLAVIA

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I. ORGANIZATION AND STRUCTURE OF THE INTERNATIONAL CONFERENCE

1. The International Conference on the Former Yugoslavia (ICFY) is an innovative enterprise combining the efforts of the United Nations and the European Community (EC), as well as other international organizations such as the Conference on Security and Cooperation in Europe (CSCE) and the Organization of the Islamic Conference (OIC) to deal with a situation fraught with danger for international peace and security. ICFY combines active preventive diplomacy, peacemaking, peace-keeping, and also has a potential peace enforcement component. The International Conference is organized to remain in being until a final settlement of the problems of the former Yugoslavia has been reached. It builds on the work already done by the European Community's Conference on Yugoslavia. Its permanent Co-Chairmen are the Head of State or Government of the Presidency of the European Community and the Secretary-General of the United Nations. A Steering Committee which manages the operational work of the Conference is co-chaired by a representative of the Secretary-General of the United Nations, Mr. Cyrus Vance, and a representative of the Presidency of the European Community, Lord Owen. Its membership includes representatives of a troika of the European Community, a troika of the CSCE, the five permanent members of the United Nations Security Council, a representative from the Organization of the Islamic Conference, two representatives from neighbouring States, and Lord Carrington.

2. Mr. Vance and Lord Owen are assisted by the Chairpersons of the Conference's six Working Groups. They work in continuous session at the United Nations Office at Geneva. In addition to their own activities, the Co-Chairmen direct the Working Groups and prepare the basis for a general settlement and associated measures. The Conference also has an Arbitration Commission and a small secretariat.

II. ACTIVITIES OF THE STEERING COMMITTEE

A. First meeting

3. The first meeting of the Steering Committee was held at Geneva on 3 September 1992, under the Co-Chairmanship of Mr. Vance and Lord Owen. The Co-Chairmen paid a tribute to the earlier work by Lord Carrington and the United Nations. They stressed that the International Conference would be a completely joint effort by the United Nations and the European Community. They emphasized their intention to hold all the Yugoslav parties to the commitments made at the London session of the International Conference and called for rapid implementation of the Conference's recommendations on tightening sanctions.

4. Following reports from the Chairpersons of the six Working Groups, it was decided that the Working Group Chairpersons would be responsible for their own method of work; that flexible representation for relevant countries might be better than fixed patterns; and that they should use expert opinion as and when needed.

5. An initial discussion of cost-sharing took place. The Co-Chairmen indicated that the secretariat would be kept as lean as possible.

B. Second meeting

6. The Co-Chairmen convened a second meeting of the Steering Committee on 27 October 1992. The Co-Chairmen reported on recent developments. The Chairpersons of the Working Groups briefed the Committee on their activities. The Steering Committee also dealt with the composition and terms of reference of the Arbitration Commission, and with financial issues, including the budget and a proposed scale of cost apportionment.

C. Information to members of the Steering Committee and other delegations

7. The members of the Steering Committee and members of the Security Council receive information notes twice weekly on developments in the Conference. The information notes cover the activities of the Co-Chairmen, the Working Groups, and recent developments in the former Yugoslavia. Delegations are also briefed regularly by the Co-Chairmen or their Special Advisers on the activities of the Conference. Other delegations receive information once a week and are invited to the briefings as observers.

III. THE CO-CHAIRMEN OF THE STEERING COMMITTEE

A. Humanitarian issues

8. Upon their arrival at Geneva on 3 September, the Co-Chairmen devoted special attention to the situation brought about by the loss of a United Nations humanitarian aircraft near Sarajevo. On 4 September they sent a message of condolence to the Italian Foreign Minister and requested the Chairman of their Working Group on Confidence and Security-Building and Verification Measures to initiate an urgent inquiry, and to inform them of its findings and recommendations. They also consulted with the United Nations High Commissioner for Refugees and addressed a meeting she had organized on humanitarian assistance, which, they stressed, was of deep concern to them.

9. On Saturday, 5 September, the Co-Chairmen intensified their efforts to clarify the circumstances surrounding the loss of the aircraft and to determine measures that could be taken to facilitate the resumption of humanitarian flights. They issued a public appeal which stated that:

> "they consider it of great importance that conditions be re-established as rapidly as possible to permit the resumption of United Nations humanitarian flights".

10. The Co-Chairmen, assisted by the Chairperson of the Humanitarian Issues Working Group and the Chairman of the Working Group on Confidence and Security-Building and Verification Measures, continued to make strenuous efforts to facilitate the resumption of humanitarian flights. Details on their activities are provided in subsequent sections of the present report. As a result of these efforts humanitarian flights could be resumed on 3 October.

11. The Co-Chairmen have continued to give the highest priority to humanitarian issues. They and their staff have kept in almost daily contact with the United Nations High Commissioner for Refugees and members of her staff, with the President of the International Committee of the Red Cross and his staff, and with other humanitarian organizations. In this regard the location of the International Conference at Geneva has been valuable. These contacts have enabled the Co-Chairmen to monitor the humanitarian situation in the former Yugoslavia closely and to alert the Security Council, the Steering Committee and the international community at large about the humanitarian plight of the victims of the conflict in Bosnia and Herzegovina.

12. The Co-Chairmen have issued several public appeals for humanitarian protection and assistance to victims of the conflict. Thus, on 24 September 1992, they issued a public statement expressing their deep concern about reports they had received from the Banja Luka region indicating a build-up of tension, bomb incidents, and intimidation with the potential threat of violence and the development of an ethnic-cleansing campaign. The Co-Chairmen, therefore, called in Ambassador Pavicevic of the Federal Republic of Yugoslavia (FRY) and Dr. Koljevic, the Bosnian Serb representative, and urged that immediate steps be taken to reduce tensions in the area. In view of the urgency of the situation, the Co-Chairmen decided to travel to Banja Luka the following day to assess the situation on the ground and to speak to representatives of the local communities and humanitarian agencies.

13. On 31 October 1992, the Co-Chairmen again issued a public statement, this time condemning the continuing assaults on innocent civilians fleeing from the fighting in and around Jajce. They called upon all parties to cease and desist from further attacks on persons displaced by the fighting. They noted that many of the civilians were seeking refuge in Travnik, where the UNHCR and other humanitarian organizations were providing help. They stated, "These blameless persons, as well as the relief workers, must not be harmed. We call upon the political and military leaders of all parties to issue instructions so that the lives of these innocent persons and of the relief workers are not further endangered. We ask that other leaders join us in this urgent appeal".

B. Diplomatic activities

14. The Co-Chairmen have engaged in extensive diplomatic activities to promote peace and the resolution of humanitarian problems in the area of the former Yugoslavia. They have naturally given priority to the current conflict in Bosnia and Herzegovina. The humanitarian, military, and political aspects of this tragic conflict have been at the top of their agenda. They have been

in steady contact with the principal leaders in the former Yugoslavia, as well as leaders of the neighbouring countries. They have contacted Governments in a position to assist the peace process and have brought together at Geneva Presidents Cosic and Tudjman, on the one hand, and Presidents Cosic and Izetbegovic, on the other. They have also sought to deal with the central relationship between Croatia and the Federal Republic of Yugoslavia - in the light of last year's bitter conflict between Croats and Serbs, whose aftermath is still felt. The Co-Chairmen have also given close attention to the potentially explosive situations in the Serbian province of Kosovo and in Macedonia.

15. With regard to the brutal conflict in Bosnia and Herzegovina, the Co-Chairmen have sought throughout to ensure that efforts to resolve civil strife there should not become hostage to the normalization of relations between Croatia and the Federal Republic of Yugoslavia. They have therefore pursued parallel initiatives. Their efforts have been directed simultaneously at two basic objectives - first, a cessation of hostilities and second, the preparation of options for the constitutional future of the country.

16. As regards the crucial Serb-Croat relationship, the Co-Chairmen have worked to help improve relations between the Federal Republic of Yugoslavia and the Republic of Croatia. They organized two sets of meetings at Geneva between Presidents Cosic and Tudjman on 30 September and 20 October. Following each of those meetings, the two Presidents signed joint declarations which contained important statements of principle and arrangements for practical cooperation. Some important results have come out of this process including the demilitarization of the Prevlaka peninsula and the establishment of liaison offices in Belgrade and Zagreb.

17. Regarding the situation in Kosovo and Macedonia, the Co-Chairmen had believed from the outset that they needed careful handling. They, therefore, asked the Chairmen of the Working Group on Ethnic and National Communities and Minorities to give these situations special attention. The Co-Chairmen have visited both areas and have had discussions with leaders on the spot and at Geneva.

18. The broad range of diplomatic activities pursued by the Co-Chairmen have included the following:

9-12 September	Co-Chairmen visited Zagreb, Sarajevo and Belgrade (Mr. Vance also visited Ljubljana)
12-13 September	Lord Owen attended EC Foreign Ministers informal meeting
16 September	Co-Chairmen met with Macedonian Minister of the Interior, L. Frckoski
	Co-Chairmen met with Mr. I. Rugova, Kosovar Albanian leader

18 September	Mr. Vance met with Chairman of Arbitration Commission, Mr. R. Badinter
21 September	Mr. Vance met with Director of UNICEF, Mr. J. Grant
22-23 September	Co-Chairmen visited Athens for talks with Prime Minister Mitsotakis
25-26 September	Co-Chairmen visited Zagreb and Banja Luka to examine humanitarian situation
28 September	Co-Chairmen visited Belgrade for discussions with FRY leaders
29 September	Co-Chairmen met with President Izetbegovic of Bosnia and Herzegovina at Geneva
	Mr. Vance met with ICRC President, C. Sommaruga
30 September	FRY President Cosic and Croatian President Tudjman met at Geneva under the auspices of the Co-Chairmen
2 October	Co-Chairmen met with Macedonian Foreign Minister, Mr. D. Maleski, at Geneva
3 October	Mr. Vance met with UNHCR, Mrs. S. Ogata, and ICRC President, C. Sommaruga
	Lord Owen brief Council of Europe
6 October	Mr. Vance met with Deputy Prime Minister of Croatia, Mr. M. Granic, at Geneva
8 October	Co-Chairmen met with UNHCR Rapporteur, Mr. T. Mazowiecki
10 October	Co-Chairmen visited Moscow for talks with Russian Federation Foreign Minister, Mr. A. Kozyrev
14 October	Mr. Vance briefed United Nations Security Council
16 October	Co-Chairmen met with Macedonian President, K. Gligorov at Geneva
17 October	Co-Chairmen met with Federal Republic of Yugoslavia Prime Minister M. Panic at Geneva
19 October	FRY President Cosic and Bosnia and Herzogina President Izetbegovic met at Geneva under the auspices of the Co-Chairmen

20 October	Second meeting of Presidents Tudjman and Cosic at Geneva under the auspices of the Co-Chairmen
21 October	Co-Chairmen met with President Izetbegovic at Geneva
24 October	Lord Owen met with Irish Prime Minister in Dublin
26 October	Mr. Vance met with ICRC President, C. Sommaruga
28 October	Constitutional paper for Bosnia and Herzegovina launched
28-30 October	Co-Chairmen visited Belgrade, Zagreb, Pristina, Tirana, Skopje and Podgorica for discussions
4-5 November	Co-Chairmen visited Ankara for discussions with Turkish leaders
9 November	Lord Owen briefed EC Foreign Affairs Council in Brussels

19. The diplomatic activities undertaken by the Co-Chairmen, or carried out under their auspices, have led to the adoption of the following documents:

(a) The Belgrade joint communiqué of 11 September 1992 issued by Federal Republic of Yugoslavia President Cosic, and Federal Republic of Yugoslavia Prime Minister Panic and witnessed by the Co-Chairmen (annex I);

(b) The joint declaration issued at Geneva on 30 September 1992 by President Cosic of the Federal Republic of Yugoslavia and President Tudjman of the Republic of Croatia, and witnessed by the Co-Chairmen (annex II);

(c) The statement issued by the Co-Chairmen on 30 September 1992 on the establishment of the Mixed Military Working Group in Sarajevo (annex III);

(d) The statement issued by the Co-Chairmen on 13 October 1992 concerning the removal of Bosnian Serb combat aircraft from Banja Luka airfield and from the territory of Bosnia and Herzegovina to the Federal Republic of Yugoslavia (annex IV);

(e) The joint statement of 19 October 1992 issued by Federal Republic of Yugoslavia President Cosic and President Izetbegovic of Bosnia and Herzegovina (annex V);

(f) The joint declaration issued on 20 October 1992 by Federal Republic of Yugoslavia President Cosic and President Tudjman of Croatia and witnessed by the Co-Chairmen (annex VI);

(g) Agreements with Croatia, FRY, Government of Bosnia and Herzegovina and Bosnian Serb representatives on deployment of observers at airfields in context of ban on military flights over Bosnia and Herzegovina. This

agreement has already been dealt with in the report of the Secretary-General pursuant to Security Council resolution 781 (1992) (S/24767 of 5 November 1992).

C. Supervision of heavy weapons in Bosnia and Herzegovina

20. Following their arrival at Geneva on 3 September the Co-Chairmen also gave urgent attention to seeking the implementation of the agreement signed in London on 27 August by Mr. Douglas Hurd, Secretary of State for Foreign and Commonwealth Affairs and Dr. Radovan Karadzic, President of the Serbian Democratic Party, concerning the concentration and supervision of heavy weapons around Sarajevo, Bihac, Jajce and Gorazde. They asked Under-Secretary-General Goulding to stop at Geneva on 5 and 6 September on his way back to New York to brief them on the problems entailed in implementation of the agreement.

21. Mr. Goulding reported that in contacts with the Bosnian Serb leadership on Tuesday and Wednesday, 1 and 2 September, the United Nations Protection Force (UNPROFOR) had succeeded in obtaining the Bosnian Serb side's agreement that the term "heavy weapons" should be interpreted to include all artillery with a calibre of 100 mm or more, all tanks armed with cannon, all multiple rocket-launchers, and all mortars with a calibre of 82 mm or more. Mr. Goulding recommended, and the Co-Chairmen agreed, that the period of 96 hours provided for in the agreement of 27 August should be deemed to have begun when this definition was agreed, namely at noon on Wednesday, 2 September.

22. On 15 September 1992, Mr. Vance issued the following statement:

> "UNPROFOR has told me that the Serb side has stated that it has concentrated its heavy weaponry - artillery, tanks, 82 mm mortar and above - at 11 sites around Sarajevo. These are now being put under UNPROFOR monitoring. At Bihac, where such weapons are to be concentrated at three sites, the local commander has declared all his heavy weaponry, but has so far declined to concentrate his 82 mm mortars, and discussions are continuing. Fighting around Jajce has thus far prevented UNPROFOR from making effective contact with the local Serb command. The Serb side has withdrawn from most of Gorazde, also removing its heavy weaponry. Although the process is not yet complete, we believe this is a start."

Further information on this issue is contained in the Secretary-General's forthcoming report on peace-keeping.

IV. WORKING GROUP ON BOSNIA AND HERZEGOVINA

23. This Working Group is chaired by Mr. Martti Ahtisaari. Its task is to promote a cessation of hostilities and a constitutional settlement in Bosnia and Herzegovina.

24. The Working Group took up this dual task on 18 September, and since that time has had 40 formal meetings, each between the Chairman and the representatives of one or another of the parties, since, so far, some of these have been unwilling to negotiate directly with the others. In addition, there have been almost an equal number of informal consultations, between the Co-Chairmen, the Chairman of the Working Group or members of the secretariat, and the leaders or other members of the delegations. As a result of these multiple and extensive contacts, a good understanding has been acquired of the positions of the parties on many of the important issues before the Working Group.

25. As the Working Group's task is a dual one, some meetings have been devoted to both the promotion of a cessation of hostilities in Bosnia and Herzegovina and the promotion of a constitutional settlement in that country, while at others only one of these subjects was discussed. It was always understood that the two aspects of the work are closely related.

A. Cessation of hostilities

26. The discussions relating to the cessation of hostilities led to an agreement, which the Co-Chairmen reported on 30 September that military commanders and local authorities of the three sides would meet under the auspices of UNPROFOR and the International Conference to work towards the demilitarization of Sarajevo and a cessation of hostilities in the city. General Morillon made several efforts to get this Mixed Military Working Group under way, but the Presidency of Bosnia declined to participate before water and electricity were restored to Sarajevo. The Co-Chairmen made strong representations to remove this precondition.

27. The Mixed Military Working Group finally met for the first time on Friday, 23 October, at Sarajevo airport. It has since held three further meetings. The activities of the Mixed Military Working Group are dealt with in the Secretary-General's forthcoming report on peace-keeping.

28. On 13 October, Lord Owen secured from Dr. Radovan Karadzic an undertaking to remove all Bosnian Serb combat aircraft from Banja Luka airfield and from the territory of Bosnia and Herzegovina to the Federal Republic of Yugoslavia. The implementation of this undertaking has been dealt with in the report of the Secretary-General of 5 November 1992 pursuant to Security Council resolution 781 (1992) (S/24767).

B. Constitutional arrangements

1. Framework of the negotiations

29. It will be recalled that the European Communities (EC) Conference on Yugoslavia (EC-COY) initiated a series of talks in February 1992 on the Future Constitutional Arrangements for Bosnia and Herzegovina. Ten rounds took place under the chairmanship of Ambassador José Cutileiro of Portugal, and senior representatives of the three main Bosnian political parties participated.

30. At the fifth round of these talks a "Statement of Principles for new constitutional arrangements for Bosnia and Herzegovina" was tentatively agreed to on 18 March 1992, and these were supplemented by some additional principles on human rights developed on 31 March at the sixth round. However, these tentative agreements were repudiated soon thereafter. No further constitutional agreements were reached at later talks held under the auspices of the EC-COY.

31. The International Conference assigned the continuation of the negotiation of a constitutional settlement in Bosnia and Herzegovina to the Bosnia and Herzegovina Working Group.

32. In starting the Working Group's consideration of this subject, the Chairman distributed a number of papers to the parties:

1. Checklist of principles relating to the Constitution;

2. Revised checklist of international human rights instruments relevant to a Constitution for Bosnia and Herzegovina (BiH);

3. List of human rights that might be considered for inclusion in, or other protection under, the BiH Constitution;

4. Preliminary thoughts for discussion on implementation, enforcement, and guarantees of human rights provisions of the BiH Constitution;

5. Distribution of governmental responsibilities between central government and constituent units - request for indication of preferences.

At the request of the Chairman of the Working Group, the parties have given their oral or written reactions to the papers on human rights prepared by the secretariat, as well as written responses to the questionnaire on the distribution of governmental responsibilities. All of these were communicated to the other delegations with the consent of the submitting delegation. The parties have also submitted, on a no-distribution basis, their respective positions regarding the constituent units or regions into which they consider Bosnia and Herzegovina should be arranged.

33. On the basis of the positions of the three parties derived from these meetings and conversations, and from their close consultations with the Chairman of the Bosnia-Herzegovina Working Group, the Co-Chairmen have reached the conclusions discussed below and presented to the parties a paper on a possible constitutional structure for Bosnia and Herzegovina (annex VII below).

2. Structure of the State

(a) Basic considerations

34. It was recognized from the beginning that the views of the three parties diverged widely on the structure of the future Bosnia and Herzegovina. One of the parties initially advocated a centralized, unitary State, arranged into a number of regions possessing merely administrative functions. Another party considered that the country should be divided into three independent States, respectively for the Muslim, Serb and Croat peoples, with each of these States having its own international legal personality, which States might form a loose confederation for the purpose of coordinating certain of their activities. The third party supported a middle position.

35. The basis for the consideration of this issue was the Statement of Principles adopted by the International Conference in London (LC/C2(FINAL)), and especially its total condemnation of forced expulsions of populations and the reversal of those which had already taken place (paragraph vi), as well as respect for the inviolability of all borders and the rejection of all efforts to change borders by force (para. viii). These principles had also been reiterated in paragraphs (c) and (e) of the above-cited Statement on Bosnia.

36. The population of Bosnia and Herzegovina is inextricably intermingled. Thus there appears to be no viable way to create three territorially distinct States based on ethnic or confessional principles. Any plan to do so would involve incorporating a very large number of members of the other ethnic/confessional groups, or consist of a number of separate enclaves of each ethnic/confessional group. Such a plan could achieve homogeneity and coherent boundaries only by a process of enforced population transfer - which has already been condemned by the International Conference, as well as by the General Assembly (resolution 46/242, preamble and para. 6) and the Security Council (resolutions 771 (1992) and 779 (1992)). Consequently, the Co-Chairmen deemed it necessary to reject any model based on three separate, ethnic/confessionally based States. Furthermore, a confederation formed of three such States would be inherently unstable, for at least two would surely forge immediate and stronger connections with neighbouring States of the former Yugoslavia than they would with the other two units of Bosnia and Herzegovina.

37. The Co-Chairmen also recognized, however, that a centralized state would not be accepted by at least two of the principal ethnic/confessional groups in Bosnia and Herzegovina, since it would not protect their interests in the wake of the bloody civil strife that now sunders the country.

38. Consequently, the Co-Chairmen believe that the only viable and stable solution that does not acquiesce in already accomplished ethnic cleansing, and in further internationally unacceptable practices, appears to be the establishment of a decentralized State. This would mean a State in which many of its principal functions, especially those directly affecting persons, would be carried out by a number of autonomous provinces. The central government, in turn, would have only those minimal responsibilities that are necessary for a state to function as such, and to carry out its responsibilities as a member of the international community. The proposed decentralization also appears to reflect the wish of all the parties, as indicated by their responses to the questionnaire on the distribution of governmental responsibilities mentioned in paragraph 32 above.

(b) Number of provinces

39. In considering the number of units, tentatively referred to as "provinces", into which Bosnia and Herzegovina might be arranged, account must of course be taken of the views of the parties. One party still insists on three as the appropriate number, as corresponding to the number of the principal "constituent nations" in the country. However, the party that originally favoured a centralized State with the existing 95 administrative units, now suggests that in a decentralized structure the number of provinces could be between 6 and 18.

40. In deciding what number or range of numbers to propose to the parties, various considerations must be taken into account. These include the desirability that each of the provinces be an administratively and economically viable unit, a goal that would be difficult to achieve if the number of units were to exceed 10. Exceeding 10 would probably mean that some would have populations of less than a quarter million. On the other hand, if the number of provinces were too few, it would be difficult to realize ethnic homogeneity without either violating the principle of geographic coherence or accepting the results of ethnic cleansing. Consequently, to meet these criteria the number of provinces might range from 7 to 10, with the precise number to be established by negotiations among the parties, in the light of proposed boundaries of the provinces.

(c) Boundaries of the provinces

41. The boundaries of the provinces should be drawn so as to constitute areas as geographically coherent as possible, taking into account ethnic, geographical (i.e., natural features, such as rivers), historical, communication (i.e., the existing road and railroad networks), economic viability, and other relevant factors (annex VII below, sect. I.B.1). Given the demographic composition of the country, it is likely that many of the provinces (but not necessarily all) will have a considerable majority of one of the three major groups. Thus, a high percentage of each group would be living in a province in which it constitutes a numerical majority, although most of the provinces would also have significant numerical minorities.

42. Utilizing the maps supplied by each of the parties on a confidential basis, proposals are being developed for a possible arrangement of Bosnia and Herzegovina into provinces that would reflect the above-mentioned considerations. It is intended to do this as soon as possible, with the assistance of expert advisers.

(d) Nature of the boundaries

43. The boundaries of the provinces are to be set out in the Constitution and would be subject to change only by amending that instrument with majorities (either in the legislature, or in a referendum, or both) indicating that the three principal groups all accept the change (see annex VII below, sect. I.B.2).

44. The boundaries between provinces are not to have the nature of state borders, i.e., there are to be no border or other controls that would hinder the free movement of people and goods throughout the entire country (annex VII below, sect. I.B.4).

(e) Recognition of ethnic and other groups

45. It is common ground among the parties that Bosnia and Herzegovina is populated by three major "constituent peoples" or ethnic/confessional groups, namely the Muslims, the Serbs and the Croats, and also by a category of "others". Two of the parties contend that in designing a government for the country a predominant role must be given to these "constituent peoples". The other party considers that there should be no such overt recognition, although it admits that the political processes of the country have been and are likely to continue to be characterized by religio/ethnic factors. The paper on a proposed constitutional structure therefore proposes that the Constitution recognize the existence of the groups in two ways: by providing that certain posts or functions be assigned by rotation or by equitable balancing among the recognized groups (see, for example, annex VII below, sect. IV.A.2(a)), and also by the conscious protection of group or minority rights (annex VII, sect. VI.A.2(b), and appendix, part C).

3. Distribution of governmental functions

46. The task of making recommendations as to the distribution of governmental responsibilities and functions between the central government and the provinces was eased through the completion of the above-mentioned questionnaires by the delegation of each of the parties, and by the fact that their responses corresponded to a considerable extent. In particular, all responses indicated a preference for a considerably decentralized State, with only minimal responsibilities entrusted to the central authorities.

47. The central government (annex VII, sect. II.A) would be responsible for: foreign affairs (including membership in international organizations), international commerce, national defence and citizenship. Only a single

citizenship is to exist in the country, although any person may hold dual citizenship (annex VII, sect. VI.C). The central government would have the power to tax for these limited purposes. Although it is intended to establish provinces that are all economically viable, if that cannot be fully realized or if some provinces are much poorer than others, then resource transfers among them may have to be envisaged, possibly using taxes collected by the central government.

48. It is proposed that certain tasks be carried out in a centralized fashion, not by the central government, but rather by independent authorities administered by representatives of all the provinces. These could be assigned operational and some regulatory tasks. In particular, the Central Bank, which is to be both the issuer of the national currency and the principal regulator of banks and similar financial institutions in the country, would be such an authority. Other authorities might be established, or constitute parts of international authorities, for operating certain transnational communication links (annex VII, sect. II.B).

49. A few functions might be carried out jointly, or on the basis of responsibility shared between the central and the provincial governments (annex VII, sect. II.C).

50. As already indicated, most governmental functions would be carried out at the provincial, or even local, level. This relates to the police, which is in almost all respects to be completely controlled by the provinces (annex VII, sect. V.2). In addition, almost all activities in which individuals are directly affected by the government, such as educational and cultural activities, the licensing of trades, professions and businesses, and the provision of health, social care, and insurance would be carried out at the local level. These are the functions that are of particular concern to those seeking to maintain the separate heritages of the peoples constituting Bosnia and Herzegovina. Of course, as indicated in paragraph 64 (b) below, the rights of the minorities likely to be scattered throughout each of the provinces would be adequately safeguarded. As far as possible, the provinces would be responsible for their own economies and infrastructure.

4. Structure of the government

51. Both the central and the provincial governments are to be structured along classical lines, i.e., they are to have legislative, executive and judicial branches.

(a) The central government

52. The national legislature is to consist of two Houses:

(a) The Lower House is to be elected by proportional representation in the country considered as a whole (annex VII, sect. IV.A.1(a)). Consequently, it is likely that its composition will initially correspond to the ethnic composition of the country. It is possible that eventually political parties

may develop that are not primarily ethnically based, but rather reflect political or regional orientation or other concerns (e.g., environmental ones). The Lower House is to appoint the Prime Minister (annex VII, sect. IV.A.2(c)) and, eventually, the ombudsmen (annex VII, sect. VI.B.2). It will also share responsibility for legislating with the Upper House, although it might be provided - as in many countries - that the Lower House, as the only directly elected national body, should predominate in any case of divergence between the two Houses, and that it should have a particular responsibility for taxation and the budget.

(b) The Upper House is to be appointed by and from the provincial governments (annex VII, sect. IV.A.1(b)). Since most of the provinces will probably have a population in which one ethnic group or another is in the majority, the composition of that House is also likely to reflect roughly the ethnic composition of the country as a whole.

53. Executive power is to be divided among a number of persons and bodies:

(a) The Presidency is to consist of the Governors (i.e. the chief executives) of all the provinces - which will thus reflect roughly the ethnic composition of the country (see para. 52 (b) above) (annex VII, sect. IV.A.2(a)). It is to be chaired by the President. The powers of this body are to be restricted to making a number of senior appointments: that of the President, of the highest appellate judges and of the military chiefs, and also the approval of the Ministers named by the Prime Minister. All these appointments are to take into account either rotation among the several groups (for unique positions such as the Presidency) or balance (for collective bodies such as the Cabinet). It will be possible to appeal alleged violations of these principles to the Constitutional Court which, at least initially, is to include a predominance of foreign judges (annex VII, sect. IV.A.3(c)).

(b) The President is to be selected by the Presidency, whether from its own ranks or from the outside (e.g., a distinguished citizen, not necessarily politically aligned) for a limited term, and will be subject to group rotation - i.e. two members of the same group cannot succeed each other. His/her function as Head of State is to be largely ceremonial, but the actual powers assigned to him/her are to be specified in detail in the Constitution (annex VII, sect. IV.A.2(b)).

(c) The Prime Minister is to be the Head of Government, and is to be elected by the Lower House (annex VII, sect. IV.A.2(c)), thus conforming to the pattern of most parliamentary democracies. As indicated, the division of powers between the Prime Minister and the President will have to be detailed in the Constitution.

(d) The Ministers would form the Cabinet with the Prime Minister and are to be appointed by him/her but, instead of being approved by the Lower House, would be approved by the Presidency - the body charged with maintaining group balance. It has not been stated that they need be members of either House of the legislature, although that could be provided.

(e) The national civil service, which is likely to be small because of the limited functions of the central government, would be subject to normal civil service/administrative governance. Its composition would have to take account of the obligation to maintain group balance.

54. The judiciary is to be a shared responsibility of the central and the provincial governments. In particular, it is proposed that the courts of "first instance" (i.e., the courts to which cases are first submitted), as well as those considering the first level of appeals from these, be constituted exclusively by the provinces. A further appeal would lie to one or more of the highest courts (e.g., civil and criminal, administrative, labour) that would be created at the national level and whose judges would be appointed by the Presidency. This appeal would encompass only questions concerning the Constitution or those arising out of national legislation or international treaties. On questions of purely provincial concern, the highest appellate level would therefore be the provincial one (annex VII, sects. IV.A.3(a) and IV.B.3).

55. In addition to these courts, there would be two senior courts with, at least initially, a predominance of foreign judges:

(a) One would be the Human Rights Court (annex VII, sect. VI.B.3), to which an appeal can be taken on any constitutionally defined human rights issue from the final, otherwise unappealable, decision of any other court. It might also be provided that an appeal can be taken if such other court delays the proceedings unduly, and also that such other court might address questions to the Human Rights Court, with the answers binding on the court that addressed the question. The national judges on this Court would be appointed by the Presidency in such a way that each group is represented. A somewhat larger number of judges would be appointed by the President of the European Court of Human Rights and the President of the European Commission of Human Rights. This would be done by a special arrangement with the Council of Europe, for which purpose the political bodies of the Council are already considering a new, general mechanism (i.e., one that would not apply just to Bosnia and Herzegovina) proposed by Lord Owen to the Parliamentary Assembly of the Council. It is hoped that the competent bodies of the Council will act quite soon to create the necessary mechanism, and that the Constitution of Bosnia and Herzegovina would then appropriately refer to it.

(b) The other court would be the Constitutional Court (annex VII, sect. IV.A.3), whose primary function would be to decide disputes between constitutional entities (e.g., the Presidency, the President, the Prime Minister, Ministers, the Lower and the Upper House of the legislature). It would also be competent to decide appeals concerning the exercise of the Presidency's appointing power (annex VII, sect. IV.A.2(a)) and it would also serve as the court of final appeal on constitutional questions arising in litigation in other courts. The Court would be composed of national judges appointed by the Presidency and of a majority of foreign judges, appointed in the first instance by the International Conference on the Former Yugoslavia and later by any international body designated by the Conference (e.g., the

President of the International Court of Justice or the United Nations Secretary-General). A court along these lines was already foreseen in the Principles agreed to by the parties on 18 March 1992 (see paragraph 30 above).

(b) The provincial governments

56. It is not anticipated that the Constitution will specify in any detail the provisions of the provincial constitutions or of the provincial governmental structures. As appropriate for a decentralized system, these matters should be left for decision by the provincial governments and voters. The provisions of the provincial constitutions, however, and of any laws adopted under them would have to be subject to the federal Constitution and laws. Any disputes concerning such matters would be decided by the Constitutional Court (annex VII, sect. III.B.).

57. Each province is expected to have a legislature, but whether it were unicameral or bicameral would be determined by the provincial constitution (annex VII, sect. IV.B.1). Of course, under the human rights provisions of the Constitution, it would be necessary that the method of electing the legislature be fully democratic.

58. Similarly, it is not to be specified in the Constitution how the provincial Governors (annex VII, sect. IV.B.2) are to attain those posts, for example by direct, popular election, or by appointment of one or both houses of the provincial legislature.

59. The provincial courts (annex VII, sect. IV.B.3), i.e. those of first instance and the intermediate appellate courts, will constitute part of the judicial system of the country as a whole and be subject to the highest courts established on the national level, including the Constitutional and the Human Rights Courts (paras. 54 and 55 above). However, the details of the structuring of provincial courts would not be specified in the Constitution, although they might be subject to some national legislation.

5. Organization and control of executive force

60. As the central Government is to be solely responsible for national defence, the military forces are to be entirely under its control (annex VII, sect. V.A.1). It remains to be decided which official will exercise that control, but we believe that the senior staff, which is to be appointed by the Presidency (annex VII, sect. IV.A.2(a)), must be balanced in respect of the recognized groups and that the post of Chief of Staff must rotate among them. In addition, all military units are to be fully integrated and function on a non-discriminatory basis. At least for an initial period (see para. 69 below), these requirements of balance, rotation, integration, and non-discrimination are to be supervised by an international authority designated by the International Conference on the Former Yugoslavia, because it is recognized that melding three armed forces which currently are engaged in bitter combat is unlikely to be successful without outside assistance and mediation (annex VII, sect. V.A.2).

61. The Constitution is to provide that the above-described forces controlled by the central Government are to have exclusive possession of military power in Bosnia and Herzegovina (annex VII, sect. V.C.). Therefore, neither the provinces, nor any other public or private entities are to be allowed to form armed units or to possess heavy weapons. What weapons the provincial police may possess might be the subject of national legislation.

62. All uniformed police are to be controlled by the provinces or by local authorities under them (annex VII, sect. V.B.1(a)). All police forces are to be fully integrated, and this requirement, too, would initially be supervised by an international authority designated by the International Conference, for the reasons indicated in respect of the military (annex VII, sect. V.B.1(b)). At the national level there is to be no uniformed, armed police, but only a coordinating office to assist the provincial police authorities and to maintain contacts with international and foreign police authorities (annex VII, sect. V.B.2) (e.g., Interpol); this responsibility would include ensuring implementation of any treaty-based responsibilities that Bosnia and Herzegovina may have (e.g., those relating to the combat of terrorism and the illegal trade in prohibited narcotic drugs).

6. Human rights

63. Statements made by the parties in the previous talks (paras. 29 and 30 above) and their oral and written observations in the Working Group agreed that the parties wish the Constitution to reflect, and the country to observe, the highest internationally accepted standards of human rights. They have also agreed that these rights be based on the international instruments formulated by, or under the aegis of, the United Nations, the Council of Europe, and the Conference on Security and Cooperation in Europe as already foreseen in the Statement of Principles of the International Conference (LC/C2(FINAL), para. (iv)). Similarly, they agree that the implementation of these rights in Bosnia and Herzegovina should, at least for a time, be supervised through international mechanisms. A list of such instruments and a description of such mechanisms were furnished to the parties (para. 32 above, items 2-4) and their reactions were uniformly positive.

64. It is therefore proposed that the Constitution set out a number of human rights, grouped essentially into three categories:

(a) General human, especially civil and political, rights as expressed in instruments such as the 1966 International Covenant on Civil and Political Rights and the Protocols thereto, and in the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms and in the Protocols thereto (annex VII, sect. VI.A.2(a), and appendix, part A);

(b) Group and especially "minority" rights, as expressed in instruments such as the 1992 draft Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities (A/47/501) and in the 1990 Recommendation 1134 (1990) of the Parliamentary Assembly of the Council

of Europe, on the rights of minorities (annex VII, sect. VI.A.2(b), and appendix, part B);

(c) Economic, social and cultural rights, as expressed in the 1966 International Covenant on Economic, Social and Cultural Rights and in the 1961 European Social Charter and the Protocol thereto; it is foreseen that many of the rights under this heading will be stated only as aspirations, as their immediate implementation may be beyond the economic means and other capabilities of the new country (annex VII, sect. VI.A.2(c), and appendix, part C).

65. It is proposed that these rights be expressly included in the Constitution, in appropriate detail for such an instrument. In any event, the international treaties and some instruments in which these rights are to be expressed, and which would be listed in the Constitution or in an annex thereto, would be incorporated into the Constitution by reference (annex VII, sect. VI.A.1, and appendix). It is also foreseen that the Constitution is to require the new State to become a party to the listed treaties as quickly as possible. As the Socialist Federal Republic of Yugoslavia, the predecessor State, was a party to most of the United Nations treaties in question, it will only be necessary in respect of these to file a notice of succession with the Secretary-General. As to the treaties originating with the Council of Europe, Bosnia and Herzegovina will not be eligible to become a party thereto until it becomes a member of the Council (annex VII, appendix, para. A(b)).

66. One of the questions that particularly interested the parties was how to ensure that these extensive human rights to be embodied in the Constitution would actually be implemented. Among the devices discussed with them, and which are in part reflected in the paper annexed hereto, are the following:

(a) All persons in Bosnia and Herzegovina, whether citizens or not, would at all times have unimpeded access to the courts (annex VII, sect. VI.B.4);

(b) Both the provincial and the national courts would be required to apply the constitutionally guaranteed human rights, as set out in the Constitution or in the international instruments incorporated therein by reference as directly applicable law, regardless of whether implementing legislation had already been enacted (annex VII, sect. VI.B.4, and appendix, para. (a));

(c) There are to be four ombudsmen, one representing each of the recognized groups, who are to have wide powers to investigate, either on the basis of complaints or on their own initiative, all questions relating to the implementation of human rights, including those arising out of ethnic cleansing, to contact the authorities responsible for any abuses, and to report to the legislature and to other appropriate governmental bodies; they would also have the right to enter the courts. Initially, the ombudsmen are to be appointed by ICFY, and later by the Lower House of the national legislature, as is customary in many countries (annex VII, sect. VI.B.2);

(d) There is to be a Human Rights Court, which has already been described in paragraph 55 (a) above (annex VII, sect. VI.B.3);

(e) There is also to be an International Commission on Human Rights for Bosnia and Herzegovina, which is not to be an instrument created by the Constitution, but by ICFY. It would be guaranteed wide powers to investigate and to hear complaints in the country, and to report thereon to the appropriate international bodies (annex VII, sect. VI.B.1);

(f) Finally, as Bosnia and Herzegovina will be required to become a party to a number of international human rights treaties that establish various types of supervisory, monitoring, and dispute-settlement mechanisms (which are especially marked in the appendix to annex VII below), it will automatically become subject to the operations of these bodies, which will provide another measure of international supervision. Incidentally these measures, unlike some of the others which are meant to operate only on an interim, transitional basis (see para. 69 below), would continue to function permanently, as they do for other States parties to these treaties.

7. Transitional international control measures

67. Although a Constitution along the lines outlined in annex VII below would be designed to establish Bosnia and Herzegovina as a State functioning in a normal way in the international community as soon as possible, it is recognized that it will be necessary during a limited period for certain aspects of the operations of the country to be subject to some international supervision and control. This will be necessary in the light of the continuing violence and other activities taking place in the country, which are likely to make it extremely difficult for the contending parties to settle into normal cooperation as foreseen in the Constitution. It also seems to reflect the desires of the parties, who have indicated that certain international controls will be necessary for some time.

68. Consequently, a number of transitional international control measures are foreseen (annex VII, sect. I.D.1(a)-(f)):

(a) Two of these would be the proposed Constitutional Court and the Human Rights Court, described in paragraph 55 (a) and (b) above;

(b) Another measure would be the proposed International Human Rights Commission for Bosnia and Herzegovina, described in paragraph 66 (e) above;

(c) The ombudsmen, described in paragraph 66 (c) above, who are initially to be appointed by ICFY;

(d) The supervision of the balance and integration of the military forces and of the non-discrimination requirements relating to the provincial police are described in paragraphs 60 and 62 above.

69. Various provisions are foreseen for the duration of these transitional measures (annex VII, sect. I.D.2(a)-(d)). For some, a particular time limit has been suggested, while others would be at the discretion of ICFY or its designated successor. Finally, all these measures (except for the purely international Human Rights Commission, which will not be a body created by the Constitution), including those for which there is no explicit termination provision, can be removed from the Constitution by amendment. Any such amendment, however, will require sufficiently high majorities to ensure that all three major groups agree that such elimination is indeed timely (annex VII, sect. III.A.3(c)).

8. Further measures

70. Immediately after the Co-Chairmen's proposals concerning a constitutional structure for Bosnia and Herzegovina (annex VII) were presented to the parties represented in the Bosnia Herzegovina Working Group on 28 October, the Chairman of the Working Group started holding consultations with them concerning these proposals. In due course it is hoped that negotiations will commence among them, either directly or through the Chairman of the Working Group. During such negotiations, the provisions outlined in the Co-Chairmen's proposal will be drafted in the form of constitutional texts by the parties with the assistance of the secretariat of ICFY. During this process, it will, of course, be necessary to settle many of the details that have so far been left open or merely outlined.

71. An important element in the constitutional negotiations will be the need to reach agreement on the number and the precise boundaries of the several provinces (see paras. 39-41 above), so that these can be incorporated into the Constitution. At an appropriate time proposals regarding boundaries will be submitted to the parties (see para. 42 above).

72. Once the three parties represented in the Working Group agree to the Constitution, it is expected that they will be prepared to adopt it within the framework of the Conference. At that point, a date for entry into force must also be agreed on, which will have to take into account the necessary preparatory steps to allow for implementation of the Constitution as soon as the country is governed by that instrument.

V. WORKING GROUP ON HUMANITARIAN ISSUES

73. The Working Group on Humanitarian Issues is chaired by the United Nations High Commissioner for Refugees, Mrs. Sadako Ogata. Its task is to promote humanitarian relief in all its aspects, including refugees.

74. It is estimated that within the region of the former Yugoslavia alone some 3 million people - displaced persons, refugees and people in besieged cities and regions - are directly affected by the crisis and are to a large extent dependent on external assistance for their survival. The main theatre of compelled displacement, as a result of fighting, ethnic cleansing and lack of means for survival, continues to be the Republic of Bosnia and Herzegovina. With the onset of winter, the plight of the civilian population, whether already displaced or not, is becoming harsher every day.

75. The Working Group has, therefore, concentrated a substantive part of its work on the situation in Bosnia and Herzegovina. There the needs are undoubtedly the greatest and the most urgent. Moreover, by trying to improve the situation in humanitarian terms, perhaps fewer people would be compelled to look for safety and assistance in the already over-burdened adjacent States, and beyond.

76. On 18 and 19 September, the Chairperson met with the Bosnian parties, at Geneva, and obtained written assurances for the safe resumption of the vital airlift to Sarajevo (which at that time had been suspended owing to the shooting down of the Italian aircraft on 3 September), for the safe passage of road convoys, for the release and safe transit of detainees, and for the unhindered supply of basic necessities such as water and electricity to besieged cities, in particular Sarajevo.

77. On 3 October, the vital airlift to Sarajevo was resumed. Furthermore, UNHCR obtained the names of local authorities responsible for the safe passage of road convoys. Thanks to the unrelenting efforts of the ICRC, in early October, some 1,670 detainees (from Trnopolje and Bileca) regained their freedom, after obtaining safe passage to Croatia and Montenegro respectively, where they are now temporarily under UNHCR's care.

78. On 15 and 16 October, and on 5 November, the Chairperson of the Working Group convened further meetings with the Bosnian parties to review the implementation of the September commitments, and to discuss the ever-increasing needs of the civilian population and the ways to reach them in the most efficient and safest manner. The Chairperson confronted the parties with the fact that harassment at checkpoints and other obstacles continue to hamper UNHCR's safe humanitarian access through road convoys. They reconfirmed their commitment to full collaboration in ensuring the safe and unhindered passage of relief convoys.

79. The Chairperson reminded the parties of their commitment under the Programme of Action on Humanitarian Issues, adopted in London, to proceed unconditionally with the release of detainees, many of whom continue to be in

detention. Reportedly not all detainees have yet been notified to ICRC. The cooperation of third States in temporarily receiving the detainees has regrettably become a crucial factor in implementing their release. The International Conference counts on the cooperation of the international community to offer temporary protection to this most vulnerable group of people. Despite the urgent appeals of UNHCR, ICRC and others, thousands of prisoners are still awaiting a solution amidst terrible conditions. The biggest group consists of 3,700 persons of the Muslim faith held in the Manjaca camp.

80. In her Working Group, Mrs. Ogata is vigorously taking part in the condemnation by the entire International Conference of the ongoing practice of ethnic cleansing. She has continued to insist on the right of people to stay, in conditions of security, and on the responsibility of everyone to ensure respect for this right. She has asked the Serbian side in particular to take measures to protect the remaining non-Serbian population in Banja Luka town, where the harassment of non-Serbs has reportedly thus far been less violent than elsewhere.

81. The discussions in the Working Group lend support to the practical arrangements which necessarily have to be worked out on the ground, for instance regarding the priorities of assistance, the safe passage of road convoys and the modalities of the release of detainees. Secondly, these discussions serve to constantly remind the parties of their commitments, to respect the London Agreements, and to respect humanitarian law and human rights.

VI. WORKING GROUP ON ETHNIC AND NATIONAL COMMUNITIES AND MINORITIES

82. This Working Group is chaired by Ambassador Geert Ahrens. Its task is to recommend initiatives for resolving ethnic questions in the former Yugoslavia. A special group on the former autonomous province of Kosovo has been set up.

83. The Working Group started its work with a plenary meeting on 15 September 1992 in which government delegations from Slovenia, Croatia, Bosnia and Herzegovina, and Macedonia participated. The delegation from Belgrade, comprising Federal, Serbian and Montenegrin government representatives did not attend, owing to technical reasons. In the plenary meeting all those present reconfirmed their commitment to the Conference principles, particularly to the Treaty Provisions for the Convention adopted in The Hague. During the same week, there were also talks at Geneva with ethnic and national communities and minorities, namely, Albanians from Kosovo, Albanians from Macedonia, Muslims from Serbia, Muslims and Albanians from Montenegro, Hungarians from Vojvodina, Croats from Vojvodina, and Serbs from Croatia. These talks showed pictures of continuous and, in some places, dangerous ethnic conflicts that were to be taken up urgently with the Governments concerned.

84. A Working Group delegation visited Belgrade from 22 to 24 September. Talks with Federal Ministers showed a general readiness to address critical issues, but also a certain hesitation to accept Conference mediation. Another plenary meeting was held at Geneva on 2 November 1992, at which the Federal delegation from Belgrade declared its commitment to the Principles of the London Conference. Participants were also brought up to date on the Group's latest activities.

85. The Sub-Group on Macedonia held three meetings between government representatives and Albanians at Geneva on 17 September, at Skopje on 15 October and at Geneva on 3 and 4 November. The very intensive work that had been done in the summer of 1992 was continued. Although some further progress could be achieved, the overall situation of the Republic (economic blockade, as the Government put it, non-recognition and, as a consequence, upsurge of nationalism) makes it increasingly difficult for the Government to compromise on ethnic questions. In the opinion of the Chairman of the Working Group, everything has to be done to uphold the so far positive internal development in Macedonia which is in real danger. The next round of talks is scheduled to take place at Skopje on 24 November.

86. The Sub-Group on Vojvodina had talks at Geneva, Belgrade and Subotica, which was visited on 24 September and where both Hungarians and Croatians were present. The Sub-Group has not yet been able to start trilateral talks owing to some hesitation in Belgrade. However, there were positive signs from Belgrade, mainly regarding the Hungarians from Vojvodina, and a first round of trilateral talks involving government representatives, ethnic Hungarians from Vojvodina and a Working Group delegation is scheduled for 10 to 11 November in Novi Sad. Concerning the Croats from Vojvodina, there is reason for hope that trilateral talks will be held in the near future.

87. In the overall situation of the Vojvodina Hungarians, there seems not to have been further deterioration, whereas the ethnic Croats in Vojvodina are under severe pressure.

88. Regarding Sandzak, although trilateral talks have not yet been held, here also there is hope that these will materialize in a short time. The situation in this region, which is related to the Bosnian war, is alarming. Large numbers of Muslims have already left. Hopefully, the presence of CSCE observers there will help to defuse the tense situation on the ground, which is a serious obstacle to meaningful dialogue.

89. On the Serbs in Croatia, the Working Group had a talk with Mr. Goran Hadzic, "President of the Republic of Krajina", and several meetings with Croatian representatives. In Belgrade on 25 September, Mr. Hadzic said that he was quite prepared for talks on human rights, economic and communication issues, but not on any form of Serbian autonomy inside Croatia. He further said that the Krajina would rather resort to renewed warfare than become a part of Croatia again. It was not possible so far to convince Mr. Hadzic or any other Knin representative that a solution has to be found on the basis of the London Principles. At a forthcoming Working Group visit to

Zagreb from 17 to 19 November, preliminary talks with UNPROFOR and UNHCR on how to proceed and cooperate on the Krajina problem will continue. The continuation of contacts with both Croatian and Serbian politicians is also envisaged.

90. Intensive work was done in the Special Group on Kosovo. The basic approach agreed to by both sides is to try a pragmatic breakthrough in one important sector - the ethnic Albanians chose education - in order to improve the political atmosphere for talks on more fundamental issues where positions are at present irreconcilable. After difficult and tedious preparations, in which the release of the Chairman of the Albanian Teachers Association from prison could be achieved, the first Conference-sponsored talks between the Federal and the Serbian Governments from Belgrade on one side and ethnic Albanian representatives from Kosovo on the other took place. On 14 October, all parties agreed to the following statement:

> "1. Representatives of the Government of the FRY and Serbia led by the Federal Minister of Education, Mr. Ivic, and representatives of the Albanians met in Pristina on 13 and 14 October with the participation of the Geneva Conference Special Group on Kosovo, under the Chairmanship of Ambassador Ahrens. A representative of the CSCE mission was also present.
>
> "2. After detailed discussion of the problems of education in the Albanian language, the participants agreed that the present situation must be changed. They further agreed on the urgent desirability of the return to normal working conditions for schools and other educational institutions.
>
> "3. It was agreed that, to achieve this, it would be necessary to adopt a pragmatic approach requiring urgent resolution, without prejudice to the positions of the parties on broader political issues.
>
> "4. The Albanian representatives agreed to provide a list of schools and other educational institutions to be covered by the measures mentioned in (2); as well as a list of teaching plans and programmes.
>
> "5. The Group agreed to meet again in Belgrade on 22 October. At that meeting discussions will be held on all the issues mentioned above and on the equal working status of teaching and educational personnel with the aim of reaching the necessary decisions for immediate action."

91. These talks were continued accordingly on 22 October in Belgrade, after meetings with both President Cosic and Mr. Rugova. The participants reaffirmed their commitment to the necessity of changing the existing situation in the field of education, and the urgent need for a return to normal conditions in schools and other educational institutions in Kosovo, as set out in their statement of 14 October. They agreed that this commitment refers to all four levels of education: pre-school, elementary school, secondary school and higher education. On Albanian insistence, there was agreement that all problems related to education in Albania at all levels are

related and must be treated as a whole. The Serbian and Federal representatives made plain the material and financial constraints affecting their areas of responsibility. Within those constraints, there will be no discrimination as between the support which they will provide for instruction in both the Albanian and the Serbian languages. However, no agreement could be reached so far on conditions under which school buildings should be opened, teachers should be reinstated and entrance examinations should be handled. The Working Group has done its best to arrange proper coordination with the CSCE efforts in former Yugoslavia. A representative of the CSCE participated in both of the Kosovo talks, in Pristina on 13 October and in Belgrade on 22 October. On 21 October there was also a conversation with the leader of the CSCE mission in Belgrade. The activities of the CSCE observers on the ground complement the negotiating endeavours of the International Conference.

92. Personal contact has been established between the Working Group's Chairman and the Special Rapporteur of the United Nations Commission on Human Rights, Mr. Mazowiecki.

VII. WORKING GROUP ON SUCCESSION ISSUES

93. The task of the Working Group is to resolve succession issues arising from the emergence of new States in the territory of the former Yugoslavia. Its work is complemented by the Working Group on Economic Issues, which is preparing an inventory of State assets and liabilities affected by the succession.

94. The Working Group was first chaired by Mr. Henry Darwin. The Co-Chairmen learned with profound regret of his death, of a heart attack, on 17 September 1992. The untimely death of this distinguished jurist deprives the Conference of one of its outstanding members. The Co-Chairmen expressed their sincere condolences to the members of Mr. Darwin's family and their gratitude for the unique contribution he had made to the search for a peaceful settlement in the former Yugoslavia.

95. On 8 October 1992, the Co-Chairmen announced that they had selected Jorgen Bojer, a senior Danish diplomat, to chair the Working Group.

96. In meetings at Geneva from 7 to 9 September 1992, the Working Group considered the issue of citizenship and concluded that the existence of a Republican citizenship, even under the former Yugoslav law, meant that no former Yugoslav citizen would become stateless as a consequence of the emergence of new States; however, certain aspects of citizenship, and particularly the conditions for changing citizenship between Republics in the light of the new situation, would require further study.

97. The Working Group also considered the definition of State property which is to be regarded as affected by the succession of States. Divergent views were expressed on this issue in the Working Group. The Working Group held a preliminary discussion on the criteria that might be appropriate for the distribution of State property among the States involved.

98. Other points being discussed in the Working Group include possible criteria for distributing any balance of assets and liabilities among the new Republics, pensions, archives, overseas properties, and succession of the treaties and to international organizations.

99. The next meeting of the Working Group is scheduled to be held at Geneva from 24 November to 27 November 1992.

VIII. WORKING GROUP ON ECONOMIC ISSUES

100. This Working Group is chaired by M. Jean Durieux. Its task is to address the economic issues arising from the emergence of new States in the territory of the former Yugoslavia. The Group's work on future economic relations between the Republics of the former Yugoslavia has had to be suspended in the light of conflict in the area and the imposition of economic sanctions. In the interim, the Group has established six expert sub-groups to prepare an inventory of assets and liabilities of the former Yugoslavia, which could be completed in the first months of 1993. A seventh working group on war damages will be convened at a later stage.

101. The Working Group has prepared a report which has evaluated the economic situation in Macedonia and the Republic's short-term needs for external assistance.

102. At the request of the Co-Chairmen of the Steering Committee, the Working Group is exploring the possibility of organizing, at the beginning of 1993, a conference, at the Prime Ministerial level, to discuss the economic reconstruction of the area of the former Yugoslavia, keeping in mind the relevant pronouncements of the United Nations Security Council.

IX. WORKING GROUP ON CONFIDENCE AND SECURITY-BUILDING AND VERIFICATION MEASURES

103. This Working Group is chaired by Mr. Vicente Berasategui. Its tasks are to develop confidence-building measures covering military movements, arms control and arms transfers and limitations, and measures for their monitoring and verification.

104. The Working Group began its work as requested by the Co-Chairmen, immediately after the downing, on 3 September, of an Italian aircraft participating in the humanitarian airlift to Sarajevo and the suspension of all humanitarian flights that followed. It held 14 meetings from 4 September to 6 October. The prime objective of the Working Group was to seek measures that could be taken by all the parties in the former Yugoslavia, and particularly those in Bosnia and Herzegovina, to facilitate the resumption of humanitarian flights into Sarajevo by restoring confidence to the operators of those flights. At the same time, measures were sought that would engage the parties in the region in a cooperative effort. All parties in the former

Yugoslavia were represented, including the three sides in Bosnia and Herzegovina. Furthermore, in attendance were the main contributors to the airlift, including Italy, representatives of the EC, CSCE, UNHCR and UNPROFOR.

105. A set of measures was adopted on 15 September and modalities for their implementation on 24 September. The measures included several already agreed upon at the London session of the International Conference in August and several new ones, some initiated by UNHCR. The measures and modalities agreed upon are reproduced in the annex to Security Council document S/24634 of 8 October 1992 and are referred to in the preambular part of resolution 781 (1992).

106. In pursuance of the measures agreed upon and in accordance with their related modalities, all the parties in the former Yugoslavia transmitted to the Chairman several rounds of information which, in an important indication of transparency, were eventually exchanged among all participants in the Working Group, including the representatives of those countries operating humanitarian flights. The parties have reported, inter alia, on the headquarters and commanders of forces in a 45-km radius of the site where the Italian aircraft went down and in a 45-km area on either side of the agreed flight route. Furthermore, two parties in Bosnia and Herzegovina have agreed to withdraw all their anti-aircraft artillery from a 45-km area on each side of the route agreed upon for humanitarian flights. One party stated it would withdraw from that area anti-aircraft artillery of 40 mm and above, and light anti-aircraft artillery (below 40 mm) from a 10-km area on each side of the route agreed upon for humanitarian flights.

107. The modalities agreed upon for the implementation of those measures have not been completely complied with and some information has still not been forwarded. In order to assist in maintaining the level of confidence already achieved by the measures agreed upon, the Working Group will keep under review the further implementation of the measures agreed upon directly relevant to the now resumed humanitarian flights. The review of the measures adopted by the Working Group to facilitate the resumption of the humanitarian flights will be co-ordinated closely with the activities in this area conducted by UNHCR and UNPROFOR.

108. On 10 October 1992, within the context of the activities of the Working Group on Confidence and Security-Building and Verification Measures, representatives of Croatia and the Federal Republic of Yugoslavia confirmed paragraph 7 of the Joint Declaration signed by their Presidents on 30 September 1992 (annex II below), and agreed on certain practical measures relating to the deployment of the European Community Monitoring Mission (ECMM) and UNPROFOR military observers on airfields in their respective countries as a confidence-building measure.

109. The Working Group will continue to meet to pursue longer-term confidence-building measures as envisaged by the International Conference in London (see Specific Decisions by the London Conference - LC/C.7, and Confidence, Security-Building and Verification - LC/C.11). These documents will continue to serve as the terms of reference for the further work of the

Group. Efforts will be made to seek common ground among the parties in the region on such measures in the field of confidence-building which would support the political process launched by the Co-Chairmen.

X. COOPERATION WITH UNPROFOR

110. The Co-Chairmen have maintained close contacts with Under-Secretary-General Goulding, and with General Nambiar, General Morillon and their colleagues in UNPROFOR. UNPROFOR has deployed a Military Liaison Officer to the Office of the Co-Chairmen, at the request of the latter, in order to ensure smooth day-to-day cooperation and coordination.

XI. COOPERATION WITH HUMAN RIGHTS AND HUMANITARIAN BODIES

111. The Co-Chairmen recognize that human rights and humanitarian issues are at the core of the current crisis in the former Yugoslavia and should be given the utmost priority.

112. In recognition of this, the Co-Chairmen, in making proposals for the proposed constitutional structure for Bosnia and Herzegovina, have advanced far-reaching ideas on human rights norms that should be included in the future Constitution; the role of the Constitutional Court; the role of a Special Human Rights Court; the need for an International Commission on Human Rights for Bosnia and Herzegovina; the need for ombudsmen; the need for the protection of minorities; and the importance of the ratification of international human rights treaties.

113. The Co-Chairmen have already taken the lead in alerting the international community to human rights and humanitarian issues in the former Yugoslavia. In his remarks to the United Nations Security Council in New York on 14 October, Mr. Vance stated:

> "We are facing an extremely difficult and complex situation whose humanitarian consequences are already appalling. I want to report frankly that with the approach of winter, thousands of lives are at risk unless the international community is able to avert a disaster. A catastrophe of untold dimensions could be unfolding.
>
> "I also want to express our team's deep anguish and concern at what is taking place on the ground in Bosnia and Herzegovina. It is hard to believe that basic rules of human rights and humanitarian law are flouted so consistently in the last decade of the twentieth century."

In his remarks to the Steering Committee of the International Conference at Geneva on 27 October, Mr. Vance stated:

> "We continue to be deeply worried about the humanitarian situation in the country."

He specifically invited the Steering Committee to:

> "consider what more can be done to make it perfectly clear that 'ethnic cleansing' is not and will not be accepted by the international community; and what steps can be taken to reverse what has already been done".

114. The Co-Chairmen have been cooperating with the Special Rapporteur of the Commission on Human Rights, Mr. Tadeusz Mazowiecki. The day after their arrival at Geneva, on 4 September, the Co-Chairmen had an extensive meeting, lasting two hours, with the Special Rapporteur. They discussed a broad range of issues. The Co-Chairmen met with the Special Rapporteur again on 8 October to review developments and to coordinate their efforts. The Co-Chairmen and the Special Rapporteur have designated contact persons in an effort to assure efficient coordination. The Co-Chairmen have designated, on their side, the Chairperson of the International Conference's Working Group on Humanitarian Issues, the United Nations High Commissioner for Refugees, Mrs. Ogata, and the Chairman of the Working Group on Minorities, Ambassador Ahrens. In addition, the Chairmen of other Working Groups of the Conference, including the Working Group on Bosnia and Herzegovina, have also had meetings with Mr. Mazowiecki or his staff.

115. In order to facilitate coordination at the working level, the Co-Chairmen have established an informal contact group on human rights and humanitarian issues, which has done useful work. Participation is being extended to include nominees from the Office of the Co-Chairmen, UNHCR, ICRC, UNPROFOR, the Special Rapporteur of the Commission on Human Rights, and the Commission of Experts recently established by the United Nations Security Council to examine and analyse evidence of grave breaches of the Geneva Conventions and other violations of international and humanitarian law committed in the territory of the former Yugoslavia.

XII. FINANCIAL ASPECTS

116. The participants in the International Conference have agreed to bear the costs related to the administrative implementation of the Conference's work programme and the provision of the secretariat.

117. At the 2nd meeting of the Steering Committee on 27 October, the Co-Chairmen announced that they had agreed on a budget of US$ 3.37 million for the six-month period ending 28 February 1993. A scale of cost apportionment among participating States is close to agreement. To date, two States have made payments towards the costs. The Organization of the Islamic Conference has also made a financial contribution. In addition, a number of Governments have helped financially, either by covering some of the personnel and other costs, or by providing, at no cost to the budget, such services as aircraft for missions to the former Yugoslavia and other countries. The Co-Chairmen are deeply appreciative of this support.

118. It was also agreed at the 2nd meeting of the Steering Committee to establish an open-ended ad hoc working group on financial matters, open to all States participating in the International Conference. It will meet, as required, to review budgetary trends and outlook.

XIII. SECRETARIAT

119. Based on the recommendation of the London session of the International Conference, a small secretariat has been established at the United Nations Office at Geneva. It is staffed by personnel from the United Nations and from the European Community. The secretariat is fully equipped and functioning.

XIV. OBSERVATIONS

120. Solutions to the problems of the former Yugoslavia will not be easy. Patient and persistent work is required. As can be seen from the preceding sections of this report, the process is being pursued in earnest. The Co-Chairmen of the Steering Committee and the Chairpersons of the Working Groups will need the full cooperation of all the parties involved and the support of the international community.

Annex I

Belgrade Joint Communiqué of 11 September 1992 issued by Federal Republic of Yugoslavia President Cosic and Federal Republic of Yugoslavia Prime Minister Panic and witnessed by the Co-Chairmen*

1. We have today reaffirmed our total commitment to the decisions taken in London at the International Conference on the Former Yugoslavia in particular that all outstanding issues should be resolved by peaceful means, on the basis of existing borders, and in a process of urgent and continuing negotiations.

2. Concerning Bosnia and Herzegovina, we have agreed on the following practical steps and objectives: (a) there should be strict observance of the commitment to the collection and supervision of heavy weapons by the agreed expiration date of 12 September 1992; (b) the provision of power and water to Sarajevo, under international management, should be urgently agreed; (c) every party on the ground must not only commit itself, but take all practical steps, to bring the earliest possible end to all hostilities in and around Sarajevo; (d) we welcome the imminent resumption of talks, without preconditions, on constitutional arrangements for Bosnia and Herzegovina with the participation of all parties; these will take place at Geneva, in a continuous and uninterrupted process, until full agreement is reached; (e) we agree on the desirability of stationing observers on the borders of States neighbouring Bosnia and Herzegovina, as requested by Prime Minister Panic; (f) an agreement in principle has been achieved regarding the placing of observers at military airfields, and a definitive agreement will be reached after consulting the United Nations and Governments concerned.

3. With respect to humanitarian issues:

(a) We declare our total condemnation of all practices related to "ethnic cleansing", and commit ourselves to helping reverse that which has already happened;

(b) We agree that all statements or commitments made under duress, particularly those relating to land and property, are wholly null and void;

(c) We urge all concerned parties to cooperate fully, promptly and unconditionally with current efforts, in particular by the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees, to free all detainees, to close all detention centres and to assure safe passage of former detainees to secure and safe areas;

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* Previously issued in document A/46/971-S/24553.

(d) We further urge all parties to facilitate the safe delivery of all humanitarian assistance;

(e) We strongly support the efforts of all agencies, local and international, to relieve the plight of displaced persons in all territories of the former Yugoslavia.

4. With respect to relations with Croatia:

(a) We welcome the agreement on the imminent reopening of the road between Belgrade and Zagreb and its symbolic designation as a "road of peace";

(b) We are committed to make all efforts to improve security around Maslenica Bridge so that repairs can be effected and the bridge reopened for traffic as soon as possible;

(c) We agree that the status of the "Yugoslav pipeline" should be the subject of urgent discussion, in the framework of the working groups of the International Conference;

(d) We welcome President Cosic's offer to the Presidents of Croatia, Macedonia and Slovenia to establish mixed committees to normalize and promote economic and practical cooperation. The International Conference's working groups on economic relations and on succession issues will usefully contribute to this work;

(e) An agreement in principle has been achieved regarding the Prevlaka peninsula. A definitive agreement will be reached after consulting the Secretary-General of the United Nations, the Security Council and the Governments concerned;

(f) We note the importance of the work of the joint commission established by the United Nations Protection Force (UNPROFOR) to deal with issues related to the "pink zones" and urge intensified cooperation with those efforts;

(g) We also call on all parties to adhere strictly to the United Nations peace-keeping plan, and in particular to support the efforts of UNPROFOR in the protected areas to eliminate illegal activities of irregular elements, both Serbian and Croatian;

(h) Given its importance in the provision of water and power to the region, we recognize the urgent need to reach agreement on problems relating to the Peruca Dam.

5. We pledge our mutual cooperation in order to steadily advance the peace process, to reduce the level of violence and curb the flow of arms. We pledge ourselves to swiftly implement the decisions of the International Conference on the Former Yugoslavia.

Dobrica Cosic

Milan Panic

Cyrus R. Vance

David Owen

Annex II

Joint Declaration issued at Geneva on 30 September 1992 by President Cosic of the Federal Republic of Yugoslavia and President Tudjman of the Republic of Croatia, and witnessed by the Co-Chairmen*

Meeting under the auspices of the Co-Chairmen of the International Conference on the Former Yugoslavia at Geneva, the undersigned Presidents wish to announce the following:

1. The two Presidents reaffirmed the commitments of the International Conference in London on the inviolability of existing borders, other than through changes reached by peaceful agreement, and agreed to intensify work towards the normalization of relations between the Federal Republic of Yugoslavia and the Republic of Croatia, on the basis of mutual recognition. All questions concerning succession to the former Socialist Federal Republic of Yugoslavia will be resolved within the framework of the International Conference or, as appropriate, bilaterally.

2. Authorities of the Republic of Croatia and the Federal Republic of Yugoslavia, in close collaboration with the United Nations Protection Force (UNPROFOR), will undertake urgent, joint measures to ensure the peaceful return to their homes in the United Nations protected areas of all persons displaced therefrom who so wish. To that end they propose the prompt establishment of a quadripartite mechanism - consisting of authorities of the Government of Croatia, local Serb representatives, representatives of UNPROFOR and the Office of the United Nations High Commissioner for Refugees (UNHCR) - to assure that this process moves forward. Equally, Serb and Croat people formerly residing on the territory of the Republic of Croatia and the Federal Republic of Yugoslavia should have the right to return in peace to their former homes. Agreement was reached with regard to more resolute action concerning the return of displaced persons to their homes, and to allowing for a voluntary and humane resettlement of those persons wishing to do so between the two States.

3. The two Presidents agree that the Yugoslav Army will leave Prevlaka by 20 October 1992 in accordance with the Vance plan. Security in the area will be resolved by demilitarization and the deployment of United Nations Monitors. The overall security of Boka Kotorska and Dubrovnik will be resolved through subsequent negotiations.

4. The two Presidents agree to establish a Joint Interstate Committee for the consideration of all open issues and for the normalization of relations between the sovereign Republic of Croatia and the Federal Republic of Yugoslavia. In order that a durable peace may be established as soon as

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* Previously issued in document S/24476.

possible, particular attention will be given to normalizing traffic and economic links.

5. The two Presidents confirm their conviction that all problems between their two States must be settled peacefully. They pledge their best efforts to this end. In that connection, they will exert all their influence towards a just, peaceful solution of the current crisis enveloping Bosnia and Herzegovina.

6. The two Presidents declare their total condemnation of all practices related to "ethnic cleansing", and commit themselves to helping reverse that which has already happened. They also declare that all statements or commitments made under duress, particularly those relating to land and property, are wholly null and void. They urge all concerned parties to cooperate fully, promptly and unconditionally with current efforts, in particular by the International Committee of the Red Cross (ICRC) and UNHCR, to free all detainees, close all detention centres, and assure safe passage of former detainees to secure and safe areas. They further urge all parties to facilitate the safe delivery of all humanitarian assistance.

7. The two Presidents welcome the early stationing of international observers on airfields in their respective countries as a confidence-building measure.

8. The two Presidents agree to meet again on 20 October with the Co-Chairmen. They express their gratitude to the Co-Chairmen for convening today's meeting.

Dobrica Cosic
President
Federal Republic of Yugoslavia

Franjo Tudjman
President
Republic of Croatia

Witnessed by: Cyrus R. Vance

David L. Owen

Geneva, 30 September 1992

Annex III

Statement issued by the Co-Chairmen on 30 September 1992 on the establishment of the Mixed Military Working Group in Sarajevo

The Co-Chairmen have been pursuing discussions with the delegations participating in the talks on Bosnia and Herzegovina to bring about, as part of the efforts to reach an overall cessation of hostilities in the country, the demilitarization of Sarajevo and the cessation of hostilities, it being understood that the search for future constitutional arrangements for Bosnia and Herzegovina will continue within the framework of the International Conference on the Former Yugoslavia.

The delegations have agreed that discussions will commence immediately involving their military commanders and local authorities, meeting under the good offices of UNPROFOR and the Geneva Conference.

Annex IV

Statement issued by the Co-Chairmen on 13 October 1992 concerning the removal of Bosnian Serb combat aircraft from Banja Luka airfield and from the territory of Bosnia and Herzegovina to the Federal Republic of Yugoslavia

The Co-Chairmen have been urgently discussing concrete steps which can be taken to achieve a cessation of hostilities in Bosnia and Herzegovina, and this is also being vigorously pursued in the Mixed Military Working Group under the chairmanship of General Morillon, UNPROFOR Commander in Bosnia and Herzegovina.

At a meeting with Lord Owen today, 13 October, Dr. Karadzic offered to remove all Bosnian Serb combat aircraft from Banja Luka airfield and from the territory of Bosnia and Herzegovina to the Federal Republic of Yugoslavia (Serbia and Montenegro) as a sign of his delegation's desire to achieve a cessation of hostilities and to facilitate the implementation of United Nations Security Council resolution 781 (1992). Prime Minister Panic of the Federal Republic of Yugoslavia has agreed under a special bilateral agreement to accept these aircraft on Federal Republic of Yugoslavia airfields which will have UNPROFOR observers, and has confirmed his agreement to the Co-Chairmen. It has been agreed that an UNPROFOR representative will travel to Banja Luka with a high-level representative of the Federal Republic of Yugoslavia Air Force to work out the practical arrangements on the ground.

Annex V

Joint Statement of 19 October 1992 issued by Federal Republic of Yugoslavia President Cosic and President Izetbegovic of Bosnia and Herzegovina*

Having met on 19 October 1992 at Geneva under the auspices of the Co-Chairmen of the International Conference on the Former Yugoslavia, Dobrica Cosic, President of the Federal Republic of Yugoslavia and Alija Izetbegovic, President of the Presidency of the Republic of Bosnia and Herzegovina, wish to make the following statement:

1. The two Presidents welcomed the invitation of the Co-Chairmen to hold this meeting and expressed their appreciation to them. The two Presidents are of the view that the International Conference on the Former Yugoslavia represents the forum for resolving outstanding problems in the area of the former Yugoslavia and pledge their support for the efforts of the Co-Chairmen. They reaffirmed all commitments entered into at the international conference in London. Their meeting took place in an open, frank atmosphere and addressed a wide range of issues in a comprehensive fashion.

2. They reaffirm the commitments of the International Conference in London on the inviolability of existing borders other than through changes reached by peaceful agreement. They further reaffirm that a comprehensive political solution in Bosnia and Herzegovina must be found by agreement between the Republic's three constituent peoples within the International Conference at Geneva. All questions concerning succession of the former Socialist Federal Republic of Yugoslavia will be resolved within the framework of the International Conference or, as appropriate, bilaterally.

3. The two Presidents agree that efforts should be intensified at all levels and by all parties involved in the conflict in Bosnia and Herzegovina to effectuate an immediate cessation of hostilities.

4. They agree on the urgent need to end the blockade of and to demilitarize Sarajevo and other cities with the assistance and under the supervision of the United Nations Protection Force. In this connection the two Presidents express the hope that the work of the Mixed Military Working Group in Bosnia and Herzegovina would be carried out intensively with participation at senior military level. The Mixed Military Working Group should meet in continuous and uninterrupted session.

5. They welcome the statement by the Co-Chairmen of the International Conference issued at Geneva on 13 October last and will within their

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* Previously issued in document A/47/571-S/24702.

respective competencies see that it is carried out as soon as possible. President Cosic informed President Izetbegovic that he had received a report today to the effect that Bosnian Serbs' military aircraft had been confined to hangars; upon his return to Belgrade he intended to sign an agreement with Bosnian Serb representatives transferring these aircraft from Bosnia and Herzegovina to the Federal Republic of Yugoslavia. The two Presidents further agreed on the desirability of promptly stationing observers at military airfields as provided for in United Nations Security Council resolution 781 (1992), as well as at their common State border.

6. The two Presidents agree on the need for all the parties in the conflict to bring under effective command and control all armed units on the territory of the Republic of Bosnia and Herzegovina and to eliminate all paramilitary groups and criminal and mercenary elements emanating from whatever source.

7. They declare their total condemnation of "ethnic cleansing" and commit themselves to helping reverse that which has already taken place. They will also use their best endeavours to bring about conditions for the return of refugees and displaced persons to their permanent residences. They further declare that all statements or commitments made under duress, particularly those relating to land and property, are null and void. They urge all concerned parties to cooperate fully, promptly and unconditionally with current efforts, in particular by the International Committee of the Red Cross and the Office of the United Nations High Commissioner for Refugees to free all detainees, close all detention centres and assure safe passage of former detainees to secure and safe areas. They further urge all parties to facilitate the safe delivery of all humanitarian assistance to the populace of Bosnia and Herzegovina.

8. The two Presidents note the adoption of United Nations Security Council resolution 780 (1992) establishing an impartial commission of experts to examine, gather and evaluate evidence of war crimes and crimes against humanity. They express their firm conviction that all perpetrators of criminal acts committed during the armed conflict in Bosnia and Herzegovina should be punished in accordance with all relevant legal provisions.

9. The two Presidents agree to meet again with the Co-Chairmen at a date to be determined. They thank the Co-Chairmen for today's meeting and also express their appreciation at the presence of UNPROFOR Force Commander, Lt.-Gen. Satish Nambiar.

Annex VI

Joint Declaration issued on 20 October 1992 by Federal Republic of Yugoslavia President Cosic and President Tudjman of Croatia and witnessed by the Co-Chairmen*

The President of the Federal Republic of Yugoslavia, Mr. Dobrica Cosic, and the President of the Republic of Croatia, Dr. Franjo Tudjman, met at Geneva on 20 October 1992, under the auspices of the Co-Chairmen of the International Conference on the Former Yugoslavia, Cyrus Vance and Lord Owen. The two Presidents reviewed the implementation of their joint declaration of 30 September and, in order to provide for its further implementation, declare as follows:

1. They note with satisfaction that various specific measures have already been taken to implement several fundamental issues covered in the joint declaration, that is, the agreement on Prevlaka; the stationing of observers at airfields in the Federal Republic of Yugoslavia and in the Republic of Croatia; and the establishment of a Joint Inter-State Committee and its five commissions.

2. They note that the Joint Committee has held its first meeting. In order to promote and enhance the work of the Committee, and with a view to ensuring conditions for normalization of relations, they agree to establish liaison offices of the Inter-State Committee in each other's capitals, Belgrade and Zagreb. Under the direction of the Committee, the liaison offices will coordinate work on all open questions between the Republic of Croatia and the Federal Republic of Yugoslavia and, as a priority, will address the following:

- Reopening of road, rail and telecommunications links between the Republic of Croatia and the Federal Republic of Yugoslavia, as well as re-establishing international links across the two countries;

- Resolving matters of personal property, pensions and remittances, and other problems related to the economic well-being of their people;

- Examining issues related to dual citizenship.

3. Reaffirming their commitment in paragraph 2 of their joint declaration of 30 September, the two Presidents agree that the quadripartite mechanism established therein should start its work as soon as possible. Its priority task should be to organize and facilitate the return and the resettlement, under humane conditions, of displaced persons and groups. The two Presidents further agree that their representatives will provide for an exchange of information on missing persons.

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* Previously issued in document A/47/572-S/24704.

4. The two Presidents agree to establish a Joint Inter-State Commission for the consideration of the overall security of Boka Kotorska and Dubrovnik. Joint customs controls will be established on the border.

5. The two Presidents agree to discuss, within their respective competencies, all elements concerning the implementation of the Vance plan at their next meeting with the two Co-Chairmen.

6. The two Presidents reaffirm their determination to exert all their influence towards a just, peaceful solution of the conflict in Bosnia and Herzegovina. They urge all parties to the conflict to direct all necessary efforts towards a cessation of hostilities and the negotiation of constitutional arrangements for Bosnia and Herzegovina on the basis of agreement between the three constituent peoples. With respect to the delivery of humanitarian aid, President Cosic informed the meeting that his Government had made the necessary preparations for the secure delivery of such aid along the Belgrade-Sarajevo route.

7. The two Presidents express their gratitude to the Co-Chairmen for having convened today's meeting and agree to meet again on a date to be specified.

Dobrica COSIC
President of the Federal
Republic of Yugoslavia

Franjo TUDJMAN
President of the Republic
of Croatia

Witnessed by: Cyrus Vance
David L. Owen

Geneva, 20 October 1992

Annex VII

Proposed constitutional structure for Bosnia and Herzegovina

Bosnia and Herzegovina (BiH) to be a decentralized State with significant functions carried by 7 to 10 autonomous provinces whose boundaries take into account ethnic and other considerations.

I. Overall structure

A. Bosnia and Herzegovina to be a decentralized State within its present international borders (i.e., those it had within the former Socialist Federal Republic of Yugoslavia).

B. Bosnia and Herzegovina to be divided into 7 to 10 autonomous provinces:

1. Boundaries of provinces to be drawn so as to constitute areas as geographically coherent as possible, taking into account ethnic, geographical (i.e., natural features, such as rivers), historical, communication (i.e., the existing road and railroad networks), economic viability, and other relevant factors. It is likely that many of the provinces (but not necessarily all) will have a considerable majority of one of the three major ethnic groups, and most will have a significant representation of minorities;

2. The provincial boundaries to be set in the Constitution, and may not be changed without amending it with high majority requirements (III.A.3). Similarly, no province to be permitted to secede without such an amendment;

3. None of the provinces to have a name that specifically identifies it with one of the major ethnic groups;

4. There are to be no border controls at inter-provincial boundaries, and full freedom of movement is to be allowed throughout the entire country.

C. The Constitution is to recognize that there are three major "ethnic" (national/religious) groups, as well as a group of "others".

D. The Constitution is to provide that on a transitional basis certain of the constitutional bodies be manned by persons appointed by the International Conference on the Former Yugoslavia and certain functions be internationally supervised.

1. These include:

(a) The Constitutional Court (IV.A.3(c));

(b) The ethnic balancing and integration of the military forces (V.A.2);

(c) The non-discriminatory composition of the police (V.B.1(b));

(d) The International Commission of Human Rights for Bosnia and Herzegovina (VI.B.1);

(e) The ombudsmen (VI.B.2);

(f) The Human Rights Court (VI.B.3).

2. The duration of these arrangements could be:

(a) Limited to a specified period (e.g., IV.A.2(b));

(b) Determined by ICFY or a successor (e.g., VI.A.2);

(c) Determined by objective factors (e.g., VI.B.3);

(d) If not otherwise provided (e.g., IV.A.3(c)), until the Constitution is amended to eliminate or change the applicable provision, for which high enough majorities should be set so that they can only be obtained by a substantial consensus of the groups (III.A.3(c)).

II. Distribution of governmental functions

A. The central government is to have exclusive responsibility for:

1. Foreign affairs (including membership in international organizations).

2. National defence (V.A).

3. International commerce (custom duties; quotas).

4. Citizenship (including dual) (VI.C.1-2).

5. Taxation for central government purposes. a/

B. "Independent" authorities, consisting of representatives of all the provinces, are to have responsibility for:

1. Central bank:

(a) Issue of currency;

(b) Regulatory functions over provincial banks.

2. Infrastructure for international and inter-provincial communications: railroads, b/ canals, b/ pipelines, b/ air control, post, telephone and telegraph.

3. Electric power grid.

C. The central government and the provinces are to share responsibility for:

1. Environmental controls, with the central government setting minimum standards, which each province can raise.

2. Judiciary (IV.A.3 and IV.B.3).

D. The provinces are generally to have exclusive responsibility for:

1. Education, including higher (i.e., universities).

2. Cultural institutions and programmes.

3. Radio and television.

4. Licensing of professions and trades.

5. Natural resources use, e.g., agriculture; forestry; hunting and fishing; mining.

6. Health care, social services and insurance.

7. Provincial communications, e.g., local roads; airports.

8. Energy production.

9. Control of commercial and savings banks and other financial institutions.

10. Police (V.B.1).

11. Taxation for provincial purposes.

The provinces are not to be allowed to entertain formal international or inter-provincial ties, except with permission of the central government; they are to have no international legal personality.

III. Constitutions

A. Central:

1. To be negotiated and adopted within framework of ICFY;

2. Supreme law of Bosnia and Herzegovina and of all the provinces;

3. Difficult to amend (i.e., high majority requirements in both Houses of legislature and possibly a referendum with high absolute and/or relative majority requirements), with the following provisions enjoying special protection (e.g., still higher majority requirements or even unanimity):

(a) Human and group right provisions (VI.A.2(a)-(b)) and the related procedural devices (VI.B);

(b) Boundaries of provinces or permission for any to secede (I.B.2);

(c) Certain provisions for transitional international supervision (I.D.2(d)).

B. Provincial: Each province to adopt its own, subject only to the national Constitution in accordance with any decisions of the Constitutional Court (IV.A.3(c)(i)).

IV. Governmental structures

A. Central government

1. Legislature

(a) Lower House: Elected on basis of proportional representation in Bosnia and Herzegovina as a whole; c/

(b) Upper House: Appointed by and from the provincial governments.

Legislation, including approval of important international engagements and of constitutional changes (III.A.3), should generally require action by both Houses, although their respective functions may not be identical in respect of all of these and different majorities might be specified for different actions.

2. Executive

(a) A "Presidency" to consist of the "Governors" of all the provinces, chaired by the President, with no executive functions but responsibility solely for senior appointments, in particular: President (IV.A.2(b)); Ministers (IV.A.2(d)); judges of highest appellate court(s) (IV.A.3(a)); national appointees to the Human Rights Court (VI.B.3) and the Constitutional Court (IV.A.3(c)); chiefs of military staff (V.A.2), all of which are to require either group rotation or balance, d/ as to which an appeal will lie to the Constitutional Court (IV.A.3(c) (iv)). No unanimity or consensus requirement, to avoid possibility of paralysis;

(b) A President (a largely ceremonial Head of State) e/ chosen by the Presidency for a limited term and subject to rotation among the groups;

(c) A Prime Minister (Head of Government) e/ elected by the Lower House of the legislature;

(d) Ministers appointed by the Prime Minister with the approval of the Presidency, with due account for group balance, the Foreign and Defence Ministers in any event to be from different groups;

(e) A civil service constituted on principle of group balance. d/

3. Judiciary

(a) The highest appellate court(s), with group balance to be required. (The courts of first instance and the intermediate appellate courts are to be provincial (IV.B.3).); f/

(b) A Human Rights Court (VI.B.3);

(c) A Constitutional Court, primarily g/ for resolving disputes:

(i) Between the central government and one or more provinces;

(ii) Between provinces;

(iii) Between principal authorities of the central government;

(iv) Concerning the group rotation or balance of appointments made by the Presidency (IV.A.2(a)).

The Constitutional Court would also serve as a court of appeals on constitutional questions from the highest appellate courts (VI.A.3(a)). The Court is to consist of one national judge from each group, appointed by the Presidency, and of five foreign judges

appointed in the first instance by ICFY, with replacements to be appointed by an appropriate international authority designated by ICFY.

B. Provincial (Determined by each provincial constitution)

1. Legislature: Preferably a single chamber, possibly two but elected on different bases.

2. Executive: A single "Governor" for each province.

3. Judiciary: Courts of first instance (civil, criminal, administrative, labour, etc.) and intermediate appellate courts.

V. Executive force

A. Military:

1. Entirely under control of central government executive.

2. Central staff to be group balanced with rotating occupation of key posts and all units to be integrated (i.e., not established on group lines); the initial arrangements relating to balancing and integration to be supervised by ICFY and thereafter by an appropriate authority designated by ICFY.

B. Police:

1. Provincial: All uniformed police to be at provincial or local level:

(a) Police controlled by provincial executive;

(b) Police to observe same rules as to non-discrimination, etc., as all branches of government (VI.A.2(b)); the initial arrangements relating to non-discrimination to be supervised by ICFY and thereafter by an appropriate authority designated by ICFY.

2. National: Only an administrative body (i.e., no uniformed, armed forces) in order to:

(a) Coordinate provincial police;

(b) Assist in technical functions (e.g., crime laboratories);

(c) Coordinate with international and foreign police authorities.

C. Prohibition on other armed forces: Aside from the military and, as appropriate, the police, no other public or private armed units may be formed in the country.

VI. Human and group/minority rights

A. Substantive:

1. Source: The highest level of internationally recognized rights, as set out in instruments (primarily treaties and some intergovernmental organizations declarations - originating with United Nations, Council of Europe and CSCE) to be specified in the Constitution (see the appendix hereto).

2. Types:

(a) General human, especially civil and political rights;

(b) Group, especially "minority" h/ rights, including obligation to maintain group balance in governmental decision-making bodies as well as in the various central and provincial civil, police and other services (or, at the minimum, strict non-discrimination);

(c) Economic, social and cultural rights - which to a considerable extent may have to be set out as aspirations and goals, and not be subject to the rigid protection of the other above-mentioned rights.

B. Procedural: The general human, civil and political, and group rights to be protected by a number of domestic and international procedural arrangements, including: i/

1. An International Commission on Human Rights for Bosnia and Herzegovina, with wide powers to investigate and to hear complaints, the obligation to report to competent international (United Nations, CSCE, Council of Europe) bodies, including, if appropriate, the Security Council. To be established by ICFY for a limited period (e.g., five years), subject to prolongation by ICFY or another appropriate international authority designated by it.

2. Four ombudsmen, one from each group, to be initially appointed by ICFY and later by the Lower House of the legislature. They are to have adequate staffs and be equipped with strong powers to investigate, be obliged to make reports to all competent governmental authorities at any level, and be empowered to appeal to or intervene in courts to protect rights; they are to have special responsibility to reverse ethnic cleansing.

3. A Human Rights Court to which appeals can be taken from any court (provincial or national) on human rights issues, which would initially be established as part of a Council of Europe mechanism and consist of one national judge from each group

appointed by the Presidency and at least five foreign judges, appointed by the Presidents of the European Court of Human Rights and the European Commission of Human Rights - to be maintained at least until Bosnia and Herzegovina becomes a member of Council of Europe and party to the European Convention on Human Rights, and perhaps even beyond.

4. Unimpeded access by individuals and recognized groups to courts under all circumstances, and with right to rely directly on constitutional provisions and on those of international treaties to which Bosnia and Herzegovina is a party or which are referred to in the Constitution, whether or not there is implementing legislation.

C. Citizenship (Closely connected with many of the human and group right provisions):

1. Citizenship of Bosnia and Herzegovina: to be determined by central government, in accordance with the Constitution and national laws.

2. Dual citizenship to be allowed.

3. No "provincial citizenship".

4. No official ethnic identification of citizens (e.g., on identity cards).

Notes

a/ If the provinces are not all economically viable, or if some are much poorer than others, then some sort of resource transfer among them may have to be envisaged, possibly utilizing the taxing power of the central government.

b/ Possibly as part of an international authority.

c/ This means that each group can form one or more parties - but there might also be parties on purely political, provincial or ideological bases.

d/ It will be necessary to indicate whether the word "balance" means "equal" or "proportional" representation.

e/ The Constitution will have to specify precisely the division of responsibilities between the President and the Prime Minister.

f/ Normally appeals to the national appellate courts would have to be on a question of national law (i.e., involving the Constitution, national legislation or international treaties), so that for most other issues the provincial appellate court would be the highest instance reached.

Notes (continued)

g/ The Constitutional Court, whose primary function would be to settle disputes among constitutional authorities, would be a court of first instance for such cases - i.e. such disputes would be brought to it directly and could be disposed of as quickly as the matter required - in preference to the Court's appellate jurisdiction specified in the sentence following the several subparagraphs.

h/ This term will require special attention and definition in respect of Bosnia and Herzegovina, because on the one hand no ethnic or other group has an absolute majority in the country as a whole, so that in a sense all are minorities, but it is likely that in many regions one group will have a clear majority.

i/ In addition to the arrangements listed below, account should also be taken of the international supervision provided on a normal basis by the special organs created by the human rights treaties to which Bosnia and Herzegovina will be obliged to become a party (to be specified in the Constitution (VI.A.1) - see para. (c) of the appendix hereto).

Appendix

International human rights treaties and other instruments a/ to be incorporated by reference into the Constitution of Bosnia and Herzegovina

The purpose of such incorporation would be:

(a) To make their provisions immediately applicable to Bosnia and Herzegovina and enforceable by its courts. In this connection it should be noted that normally States are bound only by treaties and only by those to which they voluntarily become parties. Although States can bind themselves to observe other instruments, such as declarations, many such instruments are not so formulated as to allow them to be easily used as a source of positive law. Also requiring a State to abide by such instruments puts it into a somewhat invidious position as almost no States have voluntarily entered into, or become subject to, such obligations. Consequently, before requiring Bosnia and Herzegovina to bind itself constitutionally to abide by any non-treaty instruments, each such instrument should be examined carefully to determine whether it is suitable.

(b) To oblige Bosnia and Herzegovina to become a party to those of the listed instruments that are treaties, as and when possible, i.e. immediately in respect of United Nations treaties, and upon becoming a member of the Council of Europe in respect of its treaties. As to those treaties to which the former Yugoslavia was a party, b/ Bosnia and Herzegovina will only have to submit a statement of succession to the United Nations Secretary-General.

(c) To allow international monitoring or other supervision by the bodies created by certain of these treaties. c/

It is understood that the parties to the constitutional negotiations may agree to list additional instruments in the Constitution. d/

A. General human rights, especially civil and political rights

(a) United Nations system instruments:

1. 1948 Convention on the Prevention and Punishment of the Crime of Genocide.*

2. 1948 Universal Declaration of Human Rights, Articles 1-21.

3. 1966 International Covenant on Civil and Political Rights* and its 1966 (right of petition to the Human Rights Committee) and perhaps its 1989 (abolition of death penalty) Optional Protocols [Human Rights Committee].

4. 1965 International Convention on the Elimination of All Forms of Racial Discrimination* [Committee on the Elimination of Racial Discrimination (CERD)].

5. 1979 International Convention on the Elimination of All Forms of Discrimination against Women* [Committee on the Elimination of Discrimination Against Women (CEDAW)].

6. 1989 Convention on the Rights of the Child* [Committee on the Rights of the Child].

7. 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [Committee against Torture].

8. 1951 Convention relating to the Status of Refugees* and the 1966 Protocol thereto* [United Nations High Commissioner for Refugees].

(b) Council of Europe instruments:

9. 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, and Protocols 1-10 thereto [European Commission on Human Rights and European Court of Human Rights].

10. 1987 European Convention on the Prevention of Torture and Inhuman or Degrading Treatment or Punishment [European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment - operates in respect to art. 3 of instrument 9 above].

(c) Conference on Security and Cooperation in Europe (CSCE) instruments:

11. 1975 Final Act of the [Helsinki] Conference on Security and Cooperation in Europe, Part 1(a)(VII) and Basket III [Helsinki Review Process, as enhanced by the human dimension review mechanism established by paras. 1-4 of the Vienna Concluding Document, paras. (41)-(42) of the Document of the Copenhagen Meeting, and Part I of the Document of the Moscow Meeting].

B. Protection of minorities e/

(a) United Nations system instruments:

12. 1992 draft Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities.

(b) Council of Europe instruments:

13. 1990 Council of Europe Parliamentary Assembly Recommendation 1134 (1990) on the rights of minorities, paras. 10-13.

(c) CSCE instruments:

C. Economic, social and cultural rights

(a) United Nations system instruments:

2*. 1948 Universal Declaration of Human Rights, articles 22-27.

14. 1966 International Covenant on Economic, Social and Cultural Rights* [Economic and Social Council Committee on Economic, Social and Cultural Rights]

(b) Council of Europe instruments:

15. 1961 European Social Charter and Protocol 1 thereto [Committee of Experts]

(c) CSCE instruments:

D. Citizenship and Nationality f/

(a) United Nations system instruments:

16. 1957 Convention on the Nationality of Married Women*

17. 1961 Convention on the Reduction of Statelessness

(b) Council of Europe instruments:

...

(c) CSCE instruments

...

Notes

a/ In the list herein, treaties are underlined and other instruments (e.g., declarations) are not.

b/ In this list, those treaties are marked with an asterisk (*).

c/ Such bodies are indicated in this list by double underlining.

d/ This list does not include about a dozen instruments, including a number of CSCE declarations that would fit under categories A or B, that do not appear to meet the criteria in paragraph (a) above or as to which it otherwise appears doubtful that inclusion in the BiH Constitution should be demanded, but which were included in a list of human rights instruments provided to the parties for their information.

Notes (continued)

e/ The instruments listed herein are those dealing specifically with the rights of minorities. In addition, a number of the instruments listed in section A also have relevant provisions on this subject.

f/ The instruments listed herein are those dealing specifically with questions relating to citizenship and nationality. In addition, a number of the instruments listed in section A also have relevant provisions on this subject.